

IRP-IOT Meeting #40

31 May 2018 @ 19:00 UTC

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>> THANK YOU, BERNIE FOR THAT. WE ARE AT A QUORUM. HELLO EVERYONE THIS IS DAVID MCAULEY SPEAKING. COULD I ASK THE RECORDING PLEASE BE STARTED?

>> THANK YOU, DAVID. THE RECORDING IS STARTED.

>> THANKS, VERY MUCH. HELLO EVERYBODY. AND WELCOME TO OUR CALL. WE HAD A CALL JUST LAST WEEK AND I'M WELCOMING YOU TO ANOTHER CALL TO THE IRP OVERSIGHT TEAM AND WE'RE DOING OUR BEST TO MOVE FORWARD WITH GETTING SOME RULES OUT FOR -- TO THE BOARD FOR APPLICATION TO IRP WHILE RESERVING A COUPLE OF RULES THAT WE'RE STILL TALKING ABOUT WITH A FEW TOWARDS GETTING THEM OUT TO EITHER TO PUBLIC COMMENT AS WE'RE DISCUSSING WITH THE RULE CONCERNING TIME FOR FILING, OR THAT WE RESOLVE THEM. AND SO, THIS IS ANOTHER MEETING IN THAT RESPECT. WE HAVE TWO MORE MEETINGS NEXT THURSDAY AND THE FOLLOWING THURSDAY. WE MAY NOT NEED ONE OR BOTH OF THOSE, BUT OUR GOAL HERE IS TO SORT OF PUSH TO CONCLUSION AND GET THE RULES DONE SO THAT WE CAN MOVE ON TO SOME OF OUR OTHER WORK. AND SO, I WELCOME EVERYBODY TO THAT CALL. I WOULD LIKE TO ASK IF THERE'S ANYBODY THAT'S PARTICIPATING WHO IS ON THE PHONE BUT NOT IN THE ROOM, THE COLLABORATION ROOM, I THINK WE'RE IN ZOOM THIS WEEK. NOT HEARING ANYBODY, I WILL THEN ASSUME THAT EVERYBODY HERE IS IN THE ZOOM LIST. AND SO, I WILL ASK ALL OF US TO NOTE IF WE HAVE ANY CHANGES TO OUR STATEMENTS OF INTEREST. EXCUSE ME. NOT HEARING ANY OR SEEING ANY HANDS UP, LET ME JUST DOUBLE CHECK, NOT SEEING ANY HANDS UP. WE'LL PRESS ON. THE FIRST ITEM ON THE AGENDA IS TO CONFIRM THE LANGUAGE THAT WE WANT TO USE TO GO TO PUBLIC COMMENT FOR THE REPOSE ISSUE WHICH OF COURSE IS MAKING A REFERENCE TO ONE ASPECT OF THE TIME FOR FILING RULE. NOW, I HAVE -- I HAVE A QUESTION IN A SECOND FOR BERNIE AND BRENDA WITH RESPECT TO ZOOM. LET ME JUST SAY I HAVE PULLED OUT LANGUAGE ORIGINALLY THAT WOULD BE SORT OF THE NUMBER, THE OPERATIONAL LANGUAGE THAT GOES TO CONSULTATION AND BERNIE WOULD LAYER ON TOP OF THAT THE TYPICAL LANGUAGE THAT INTRODUCES THE AUDIENCE TO WHAT THIS IS, ET CETERA, ET CETERA. BUT THE NUB OF THE LANGUAGE I PUT OUT TO LIST ANIMAL COME CAME BACK WITH A COMMENT, THOUGHT I HAD BEEN A LITTLE QUALITATIVELY INCORRECT AND HE SUGGESTED SOMETHING I THOUGHT WAS NOT QUITE RIGHT SO I CAME OUT IN THE LAST SEVERAL DAYS WITH A VARIATION THAT WAS STRICTLY OBJECTIVE AND I WANT TO THANK BERNIE FOR HIS OFF-LINE HELP IN HELPING ME DO THAT. SO I THINK, BASED ON THE LIST THAT WE ARE PROBABLY AGREED ON THAT LANGUAGE. AND WHAT I DID WAS I SENT TO US, THE PARAGRAPH THAT I WOULD DELETE AND THE SUBSTITUTE LANGUAGE THAT I WOULD INSERT AND THEN SHORTLY BEFORE THIS CALL, MAYBE AN HOUR, HOUR AND A HALF AGO OR SO, I MADE IT A POINT TO SEND, OKAY WITH THAT CHANGE BEING PROBABLY ACCEPTED, HERE'S WHAT THAT WHOLE OPERATIONAL LANGUAGE WOULD LOOK LIKE. AND IT'S NOT ALL THAT LONG. GIVEN THAT A NUMBER OF THE TEAM MEMBERS ARE NOT ON THIS CALL I THOUGHT IT

MIGHT BE WISE TO READ THE LANGUAGE JUST SO IT'S PART OF THE RECORD AND THAT GETS TO MY QUESTION TO BERNIE AND BRENDA. MY ZOOM SCREEN TAKES UP THE WHOLE SCREEN AND I DON'T KNOW HOW TO REDUCE IT TO GET ACCESS TO MY EMAIL WHICH I HAVE THAT LANGUAGE SITTING IN FRONT OF ME. BERNIE OR BRENDA CAN YOU TELL ME?

>> HI, DAVID, THIS IS BRENDA. I WILL GIVE YOU WHAT I BELIEVE SHOULD WORK. SO JUST TAKE YOUR MOUSE OR CURSOR AND GO TO THE TOP OF THE SCREEN. AND IT SHOULD SHOW YOU A MENU BAR TO MAKE -- TO HIDE THE FULL SCREEN. DO YOU HAVE THAT OPTION?

>> I DO.

>> IT'S A ROLL DOWN MENU UNDER VIEW OPTIONS.

>> I GOT IT. THANK YOU, BOTH. MY APOLOGIES TO THE GROUP FOR HAVING TO MESS WITH THIS. BUT AS I SAID, THIS LANGUAGE -- YOU KNOW I SORT OF HATE TO READ THINGS, BECAUSE IT CAN BE TEDIOUS. I APOLOGIZE FOR THAT BUT I WOULD LIKE TO READ THIS LANGUAGE BECAUSE I THINK IT'S IMPORTANT THAT WE ALL RECOGNIZE WHAT WE'RE TALKING ABOUT HERE. SO I WILL TAKE A MOMENT AND READ THE LANGUAGE THAT I BELIEVE IS THE SORT OF WHAT I'M CALLING OPERATIONAL LANGUAGE FOR GETTING THE IDEA OF THE REPOSE OUT TO PUBLIC COMMENT. AND SO THIS IS THE DRAFT LANGUAGE FOR PUBLIC COMMENT ON THE TIME FOR FILING RULE REPOSE. "UPDATED SUPPLEMENTARY PROCEDURES FOR THE INDEPENDENT REVIEW PROCESS IRP WERE SUBMITTED FOR PUBLIC COMMENT ON NOVEMBER 28, 2016. THE COMMENT PERIOD CLOSED ON FEBRUARY 1, 2017 AND THE STAFF REPORT ON THE PUBLIC COMMENTS WAS ISSUED ON AUGUST 2, 2017. THE PUBLIC COMMENT SUBMITTED ARE AVAILABLE HERE AND THERE'S A LINK PROVIDED. A NUMBER OF PUBLIC COMMENTS FOCUSED ON UPDATED SUPPLEMENTARY PROCEDURE NUMBER 4, TIME FOR FILING. THAT RULE AS PROPOSED BY THE IRP IMPLEMENTATION OVERSIGHT TEAM, IOT SAID THIS, TIME FOR FILING. AN INDEPENDENT REVIEW WAS COMMENCED WHEN CLAIMANT FILES A WRITTEN STATEMENT OF DISPUTE, A CLAIM MEANT MAY FILE WITH THE IDCR NO MORE THAN 45 DAYS AFTER A CLAIMANT BECOMES AWARE OF THE MATERIAL EFFECT OF THE ACTION OR INACTION GIVING RISE TO THE DISPUTE, PROVIDED HOWEVER, THAT A STATEMENT OF A DISPUTE MAY NOT BE FILED MORE THAN 12 MONTHS FROM THE DATE OF SUCH ACTION OR INACTION. IN ORDER FOR AN IRP TO BE DEEMED TO HAVE BEEN TIMELY FILED, ALL FEES MUST BE PAID TO THE ICDR WITHIN 3 BUSINESS DAYS WHICH MEASURED BY THEM OF THE FILING WITH THE REQUEST OF THE ICDR. PARENTHETICALLY FOOTNOTES ARE OMITTED AND A LINK IS PROVIDED. ON THE TOPIC OF THE 12 MONTH LIMITATION, 13 OF THE 19 RESPONDENTS TO THE PUBLIC CONSULTATION COMMENTED ON THIS WITH 11 HAVING ISSUES WITH THIS PROPOSAL AND EITHER OPPOSED IT OR PROPOSED CHANGES. ON THE TOPIC OF THE 45 DAY ASPECT OF THE TIME FOR FILING LANGUAGE, 11 OF THE 19 RESPONDENTS COMMENTED ON THIS PORTION OF THE DRAFT AND ALL 11 HAD ISSUES WITH THIS PROPOSAL AND EITHER OPPOSED IT OR PROPOSED CHANGES. ALL MATERIAL AND COMMENTS RELATING TO THE PUBLIC CONSULTATION ON THE IRP HELD IN 2016 IS ARCHIVED AT... AND A LINK IS PROVIDED. FOLLOWING ITS DELIBERATIONS THE IRPOT PROPOSES AMENDING ITS ORIGINALLY UPDATED SUPPLEMENTARY PROCEDURE NUMBER 4, TIME FOR FILING IN ITS ENTIRETY TO SAY AS FOLLOWS. FOUR, TIME FOR FILING. AN INDEPENDENT REVIEW IS COMMENCED BEHAVIOR CLAIMANT FILES A WRITTEN STATEMENT OF A DISPUTE. A CLAIMANT SHALL FILE A WRITTEN STATEMENT OF DISPUTE WITH THE IDCR NO MORE THAN 120 DAYS AFTER A CLAIMANT BECOMES AWARE OR REASONABLY TO HAVE BEEN AWARE OF THE MATERIAL EFFECT OF THE

ACTION OR INACTION GIVING RISE TO THE DISPUTE. IN ORDER FOR AN IRP TO BE DEEMED TO BE TIMELY FILED ALL FEES MUST BE PAID WITHIN 3 BUSINESS DAYS AS MEASURED BY THE IDCR OF THE FILING OF THE REQUEST WITH THE ICDR. END OF READING, THAT'S THE END OF THE DRAFT LANGUAGE. SO THAT'S WHAT I THINK WE SHOULD CONFIRM ON THIS PHONE CALL, WITH THE UNDERSTANDING THAT THERE MAY BE A MINORITY STATEMENT THAT GOES ALONG WITH THIS THEN INVITING PEOPLE TO MAKE PUBLIC COMMENTS, THERE MAY BE COMMENTS COMING FROM THIS GROUP AS WELL AS OTHERS. WITH THAT SAID LET ME GET BACK INTO THE ZOOM ROOM AND SEE IF THERE ARE ANY HANDS UP. AND I'VE NOT BEEN LOOKING AT COMMENTS OBVIOUSLY. SO BERNIE OR BRENDA IF YOU WANT TO NOTE ANYTHING TO ME THAT'S SIGNIFICANT FROM THE CHAT, PLEASE DO SO. I WOULD LIKE TO ASK IF ANYBODY HAS ANY COMMENTS ON USING THIS LANGUAGE IN ORDER TO SEEK PUBLIC CONSULT ON THE ISSUE OF REPOSE. AND I DON'T HEAR ANYONE OR SEE ANY HANDS UP. SO, I THINK WE CAN CONFIRM THAT IS THE LANGUAGE. I'LL CHECK THE LIST IN THE NEXT COMING DAYS TO SEE IF THERE'S ANY ISSUES. AND I THINK WE CAN MOVE TO AGENDA ITEM NUMBER 3 WHICH IS THE INTERIM RULES AND WHAT WE MEAN BY INTERIM. IN THAT RESPECT, SAM I MAY TURN TO YOU BECAUSE I SAW AN EMAIL CAME IN RELATIVELY CLOSE TO THE CALL AND TO BE HONEST I HAVE NOT HAD A CHANCE TO READ IT. I DID BRING TO THIS GROUP'S ATTENTION ONE MORE TIME YOUR EMAIL OF SEVERAL WEEKS AGO AND I WOULD LIKE TO GIVE THE FLOOR TO YOU TO SORT OF TALK US THROUGH HOW YOU SEE THIS. AND LET ME JUST SET THIS UP A LITTLE BIT FURTHER BY SAYING MY ORIGINAL PROPOSAL ON THIS WAS TO HAVE TWO BUCKETS, ONE BEING THE RULES WE'VE AGREED ON WOULD GO TO THE BOARD FOR ACCEPTANCE AS RULES AND TWO, THE RULES THAT WE HADN'T AGREED ON WOULD BE RESERVED AS RULES TO EITHER WORK ON OR SEEK PUBLIC CONSULTATION ON. SO SAM, CAN I ASK YOU TO SPEAK UP ABOUT YOUR EMAIL OR WHAT YOU SAID BEFORE.

>> SURE, DAVID. THIS IS SAM FOR THE RECORD. SO FIRST THE EMAIL I SENT EARLIER, ONE OF THE THINGS THAT YOU MIGHT HAVE NOTICED IN THE DOCUMENTATION ON THE PROPOSAL FOR THE INTERIM SET OF RULES THAT WE HAD IDENTIFIED -- WE MADE A RECOMMENDATION THAT THERE WAS STILL MORE WORK NEEDED TO GET THE TRANSLATION ITEM TO WHERE IT -- WHERE IT WILL BE APPROPRIATE TO HAVE IT DISTILLED INTO LANGUAGE. FROM OUR READING OF HOW WE COULD GET IT INCLUDED, WE REALLY NEED SOME MORE INFORMATION. I THINK THIS IS ONE OF THOSE AREAS THAT WE'RE PROBABLY PRETTY MUCH READY TO GET OUT TO OUTSIDE COUNSEL AND BECAUSE WE DIDN'T THINK IT WAS APPROPRIATE YET TO JUST INSERT LANGUAGE ON IT, THAT WE DIDN'T PUT ANYTHING INTO THAT INTERIM BUCKET THAT WE HAD. SO, WHAT I DID IN THE EMAIL THAT I JUST SENT EARLIER THAT WAS FOCUSED ONLY ON TRANSLATION, I CITED SOME LANGUAGE FROM THAT REPORT ON PUBLIC COMMENT THAT WENT OUT EARLIER. AND THEN, I PROVIDED SOME INFORMATION AS TO WHY WE THOUGHT THAT EVEN WITH SOME OF THE CLARIFICATIONS THAT WERE PUT OUT IN THE REPORT, THAT WE PROBABLY NEEDED SOME MORE WORK TO DO ON THIS. I THINK ONE OF THOSE BIG ISSUES IS WHERE THIS FITS INTO COST. BECAUSE, THERE'S THE POTENTIAL FOR US TO SAY THAT TRANSLATIONS ARE PART OF THE ADMINISTRATIVE COSTS. BUT, ON THE OTHER HAND, TRANSLATION THAT'S USED FOR THE PURPOSES OF FURTHERING SOMEONE'S ARGUMENT AND FOR REALLY LAYING OUT HOW THEY'RE PARTICIPATING IN THE INDEPENDENT REVIEW COULD ALSO BE CONSIDERED A LEGAL TOOL. SO IT'S NOT NECESSARILY CLEAR THAT A TRANSLATION ITSELF IS AN ADMINISTRATIVE ITEM, BUT IT REALLY COULD BE SEEN AS A LEGAL -- A VEHICLE

FOR FURTHERING LEGAL ARGUMENTS. SO IN THAT SITUATION, WHILE THE PANEL MIGHT SAY IT'S APPROPRIATE FOR THERE TO BE TRANSLATION, WHO IS RESPONSIBLE FOR PAYING THE TRANSLATION AND PAYING FOR IT? BECAUSE IF IT'S A LEGAL COST IT'S A DIFFERENT THING FROM THE ADMINISTRATIVE COSTS. I JUST WANT TO THROW THAT OUT THERE AS PART OF ONE OF THE ISSUES THAT WE WERE LOOKING AT IN TERMS OF WHY THIS ISN'T JUST A CRYSTAL CLEAR LINE. AND ALSO, IN THE LANGUAGE THAT WAS PUT OUT THERE WASN'T REFERENCE TO THE COMPETENCY OF THE REPRESENTATIVE OF THE CLAIMANT IN ENGLISH. IT WAS JUST ABOUT PEOPLE WHO ARE PART OF THE CLAIMANT, AND WHETHER THEY HAD PROFICIENCY IN ENGLISH AND WE RECOMMEND THAT REPRESENTATIVE PROFICIENCY BE PART OF WHAT IS APPROPRIATE TO HAVE TRANSLATIONS ORDERED WITHIN THE IRP SYSTEM. SO, THOSE ARE SOME OF THE IDEAS WE PUT OUT. AS I NOTED AT THE TOP OF MY EMAIL AND IT'S ALSO AT THE BOTTOM I THINK THIS IS SOMETHING WE CAN EITHER SAY TO OUTSIDE COUNSEL, LOOK, HERE'S SOME OF THE WORK OF THE IOT WAS EARLIER AND HERE ARE OTHER THOUGHTS, CAN YOU TRY TO DRAFT SOME LANGUAGE. OR WE CAN SPEND TIME IN THE IOT, CLEARLY NOT ON THIS CALL, TO TRY TO IDENTIFY IF WE HAVE RESPONSES TO THOSE QUESTIONS TO GIVE US GUIDANCE TO THE OUTSIDE COUNSEL BEFORE THEY START DRAFTING. SO I THINK ON THIS ONE IT'S JUST A MATTER OF HOW QUICKLY WE WANT TO GIVE IT TO THEM. I THINK IT CAN GO EITHER WAY. BUT THAT JUST GIVES A LITTLE MORE INFORMATION AS TO WHY WE -- WHY WE MADE THAT COMMENT WITHIN THE INTERIM RULES DOCUMENT EARLIER. AND ALSO, I JUST WANTED TO CLARIFY THAT AS WE WERE GOING THROUGH AND LOOKING AT THIS, I THINK THAT THOUGH I PREVIOUSLY STATED THAT MAYBE THIS WAS AN ISSUE THAT WAS APPROPRIATE FOR FURTHER COMMENT OR MAYBE WE WANT TO DISCUSS THIS IS AN ISSUE APPROPRIATE FOR FURTHER COMMENT, I DON'T THINK THAT IT IS SUFFICIENTLY MATERIAL TO WARRANT GOING OUT FOR FURTHER COMMENT, AND IT'S REALLY ONE OF THOSE GUIDANCE ITEMS THAT THE IOT CAN HANDLE WITH EXTERNAL COUNSEL. SO I'LL STOP THERE THEN WE CAN TURN TO THE BROADER DOCUMENT IF THERE ARE FURTHER QUESTIONS ON THAT.

>> THANK YOU, SAM. I JUST WANT TO MAKE ONE OR TWO COMMENTS AND LET ME LOOK NOW AND SEE IF ANY HANDS ARE UP. I DON'T SEE ANY. WITH RESPECT TO TRANSLATION, I TEND TO -- FIRST OF ALL I HAVEN'T READ IT YET BUT LET ME THANK YOU FOR ANY POINTS OF CLARIFICATION I THINK WE SHOULD LOOK AT AND I THINK WE SHOULD BE PREPARED TO DISCUSS ON THE PHONE NEXT WEEK IF NEEDED. AND I'LL TRY TO SET THAT UP ON THE LIST. HOPEFULLY, WE CAN DEAL WITH THIS VERY QUICKLY. I TEND TO AGREE WITH THE CONCEPT, IN FACT I THINK I WAS THE FIRST ONE TO TAKE IT PASS TRANSLATION AND IT WAS ALONG THE LINES OF MINIMIZING COSTS AS MUCH AS POSSIBLE, MAKING SURE THERE WAS FUNDAMENTAL FAIRNESS WITH RESPECT TO LANGUAGE UNDERSTANDING ON THE PART OF PARTIES FOR DOCUMENTS THAT WERE CRITICAL TO THE IRP AND THAT WERE SUBSTANTIVE, NOT SORT OF -- I THINK THE DICHOTOMY YOU USED WAS LEGAL VERSUS ADMIN. I THINK I UNDERSTAND THE POINT. WE DON'T WANT TO BE TRANSLATING THINGS SOMEONE IS USING STRATEGICALLY TO AID THEIR ARGUMENT. THEY CAN DO THAT. BUT I TAKE THE POINT THERE NEEDS TO BE SOME, YOU KNOW, WE'RE TRYING TO DEAL AND CREATE A FAIR SYSTEM, WHERE -- AND A SYSTEM STRIKES ME AS BEING FAIR. I WAS THE ONE THAT PROPOSED IT. IF SOMEBODY, SOME PERSON WITHIN A CLAIMANT SPEAKS ENGLISH OR SPEAKS FRENCH, YOU KNOW, THAT WE WOULD USE THE LANGUAGE, YOU KNOW, THE LANGUAGE CAPABILITIES THAT THEY HAVE. YOU KNOW, SO BEFORE WE GO TO TRANSLATING A LANGUAGE THAT'S LET'S

CALL OBSCURE, WE WOULD LOOK TO ENGLISH. THEN UN LANGUAGES THAT I CAN'T TYPICALLY USE. SO I LIKE THE CONCEPT, I LIKE THE IDEA. I WILL TAKE A LOOK AT IT. I ENCOURAGE EVERYBODY ON THE CALL TO TAKE A LOOK AT IT AND WE WILL TRY TO SET IT UP ON THE LIST FOR A CALL NEXT WEEK. WITH RESPECT TO GETTING SOMETHING OUT TO TO COUNSEL WE HAVE TO. WE'RE RUNNING OUT OF TIME. JUNE IS THE END OF ICANN AND THE MONEY WE HAVE TO USE IN THIS RESPECT. SO WE WILL PROBABLY RUN OUT OF THE ABILITY TO TURN IF WE DON'T GET IT DONE LET'S SAY NEXT WEEK OR AS I SAID THE WEEK AFTER THAT. THAT WOULD THEN PUSH -- I THINK WE WOULD QUALIFY AS HAVING IT DONE IN THE FISCAL YEAR IF WE GET THE QUESTION TO THEM IN A TIMELY FASHION. I HOPE SO. ALSO --

>> I'M SORRY, SAM. GO AHEAD.

>> SO LONG AS THEIR BILLING OCCURS IN THIS FISCAL YEAR. THAT'S FINE.

>> WE MAY HAVE MISSED THAT DATE ALREADY.

>> IF THEY PERFORM THE WORK IN JUNE, IT'S FINE.

>> OKAY.

>> BECAUSE THEY BILL US BASED ON THE MONTH THEY PERFORM THE WORK. SO AS LONG AS THE WORK IS PERFORMED IN JUNE, THAT'S FINE.

>> OKAY. AND HOLLY KNOWS THAT. ALONG THE WAY IN THE PROCESS I MENTIONED TO HOLLY WE HOPE TO GET SOMETHING, YOU KNOW, SOON. AND SHE UNDERSTANDS.

>> GREAT.

>>> AND, THANK YOU. ONE MORE PARENTHETICAL COMMENT FROM ME AND THAT IS IN THIS PAST SEVERAL DAYS I HAVE BEEN HAVING -- I'M GETTING A NEW LAPTOP TO REPLACE THE ONE THAT'S BEEN PROBLEMATIC FOR ME BUT THE CONSEQUENCE HAS BEEN SEVERAL PROBLEMS OVER THE LAST COUPLE DAYS. I APOLOGIZE GETTING THINGS OUT LATE. I'VE JUST BEEN LACKING APPROPRIATE ACCESS FOR ABOUT 2 DAYS. SO, IT IS WHAT IT IS. AND WE'RE MOVING FORWARD. I'M GETTING THIS THING STRAIGHTENED OUT. SO, WE'RE STILL THEN I THINK ON AGENDA ITEM NUMBER 3, SAM. AND IT DEALS WITH INTERIM RULES. BECAUSE YOU PUT YOUR DOCUMENT OUT WE NEED TO -- I THINK THERE MAY HAVE BEEN SOME CONFUSION, PERHAPS BETWEEN YOU AND MYSELF OR I MAY NOT HAVE UNDERSTOOD EXACTLY WHAT YOU MEANT. BUT I ORIGINALLY SAW THE INTERIM RULES AS I MENTIONED BEFORE THAT WE WOULD PUT A BUCKET OF RULES TO THE BOARD AND SAY TO THE BOARD, WE'VE AGREED TO THESE RULES, WE WOULD LIKE TO SUBMIT THEM TO YOU FOR YOUR CONSIDERATION. THESE ARE RULES THAT WOULD GUIDE THE NEW IRP, THE POST DIANA TRANSITION IRP. THEN WHEN I SAW YOUR DOCUMENT, I BELIEVE WHAT YOU WANT TO DO IS PUT OUT ALL OF THE RULES THAT WE ISSUED FOR PUBLIC COMMENT. AND I THINK THAT WAS -- I FORGET WHEN IT WAS BUT THOSE ARE THE RULES THAT WE CAME UP WITH POST DIANA TRANSITION AND PUT OUT THE PUBLIC COMMENT. AND YOU WOULD LIKE TO PUT ALL THOSE RULES OUT AS RULES WITH A NOTATION THAT SOME OF THEM ARE GOING BACK OUT TO PUBLIC CONSULTATION. AND SO THEY'RE SIMPLY OBTAINING IN THE MEANTIME. HAVE I CHARACTERIZED THAT CORRECTLY?

>>> PRETTY MUCH. SO, IT'S PUTTING OUT A FULL SET OF SUPPLEMENTARY PROCEDURES THAT COULD BE APPLIED TO AN IRP IF IT WAS FILED BEFORE WE GET ALL THE FINAL LANGUAGE AND ALL THE FINAL APPROVALS OF A FINAL SET OF SUPPLEMENTARY PROCEDURES. SO WE KNOW THAT THERE'S LIKELY JUST ONE ISSUE THAT WE'RE GOING OUT FOR COMMENTS ON. SO, WE WOULD MAKE CLEAR THAT WAS -- THAT ONE IS FOR COMMENT. BUT THERE'S ALSO THIS GROUPING OF RULES THAT WE THINK WE PROBABLY NEED SOME FURTHER LEGAL HELP TO

REFINE. AND SO, WE HAD THOSE ITEMS ANNOTATED IN THE DOCUMENT AS WELL. SO THE DOCUMENT IS WHAT YOU SUGGESTED, PLUS A LITTLE BIT MORE IN THAT WE BE WAITING FOR FINAL RULES TO COME OUT OF THE LEGAL COUNSEL PROCESS OR THE FINAL LANGUAGE. THEN ALSO WE WOULD WAIT FOR THE SUPPLEMENTARY PROCEDURE PORTION TO CONCLUDE AND HAVE THE FINAL DETERMINATION OF WHAT WE'RE PRESENTING TO THE BOARD THERE. SO BASICALLY WE PRESENT TWO SEPARATE VERSIONS TO THE BOARD. WE PRESENT THE INTERIM ONE AS QUICKLY AS WE CAN TO GET A SET IN PLACE IN THE EVENT AN IRP IS FILED SOON. AND WE WOULD THEN HAVE THE HOLDING -- IT WOULD ALMOST BE OUR HOLDING PIECE THAT WOULD BE IN PLACE UNTIL WE FINALIZE ALL THE OTHER PORTIONS OF THE SUPPLEMENTARY PROCEDURES AND WE CAN PRESENT THAT TO THE BOARD AS A WHOLE AFTER WE CONCLUDE THE DRAFTING PROCESS AND PUBLIC COMMENT PROCESS.

>> OKAY. SO NOW I BELIEVE I UNDERSTAND YOUR APPROACH. WHICH I THINK DIFFERS FROM MINE. AND SO, MY QUESTION TO YOU, SAM, WOULD BE AND I'M ANTICIPATING SOME PEOPLE MIGHT OBJECT TO THAT BECAUSE IF WE DID THAT, WHAT WOULD YOU -- WHAT WOULD HAPPEN TO SOMEBODY WHO IS OUTSIDE THE 12 MONTH FILING TIME? IF WE TOOK THE APPROACH YOU'RE SUGGESTING. WOULD THEY BE SHUT OUT OF MAKING --

>> SO, IF WE -- LET'S PLAY THIS OUT UNDER THE ASSUMPTION. I'M JUST GOING TO STATE WHAT THE ASSUMPTIONS ARE. LET'S SAY THE DOCUMENT THAT WE APPROVED AND WE HAD THE BOARD APPROVE TOMORROW AN INTERIM SET OF RULES THAT INCLUDES A ONE YEAR REPOSE. AND 6 MONTHS OR 5 MONTHS OR HOWEVER LONG, WE COMPLETE A VERSION OF SUPPLEMENTAL PROCEDURES THAT BARS THE ISSUE OF REPOSE. RIGHT? THAT'S GONE. UM, SO, THERE MIGHT BE A SMALL SUBSET OF PEOPLE WHO WOULD HIT THEIR 120 DAY LIMIT AND NOT -- AND ALSO BE OUTSIDE OF THE YEAR. BECAUSE IF WE'RE ASSUMING THE FINAL VERSION DOES NOT INCLUDE A PERIOD OF REPOSE. RIGHT?

>> YES, I'M MAKING THAT ASSUMPTION.

>> YEAH. SO LAYING ALL THOSE OUT IF THERE'S A POTENTIAL THAT THERE'S A VERY SMALL SUBSET OF PEOPLE WHO HAVE THEIR 120 DAYS BUT THEY WERE ALREADY MORE THAN A YEAR OUT FROM THE ACTION THEY WERE CONCERNED ABOUT BUT THEY BELIEVE THEIR 120 DAYS HIT DURING THE TIME THAT WE HAVE THE INTERIM RULES IN PLACE, SO THAT SMALL SUBSET OF PEOPLE MIGHT HAVE SOME ISSUE. BUT OTHERWISE, ANYONE ELSE WHO WOULD LATER COME IN ABOUT 120 DAYS, EVEN -- NO MATTER WHEN THE ITEM OCCURRED, THEY COULD ALWAYS BRING IT. SO, FROM THAT WAY BECAUSE IT'S BROADER IT WOULD HAVE FAR MORE "RETROACTIVITY." SO WE COULD CONSIDER -- IF THE SITUATION HAPPENED THAT WE HAVE SOMEONE -- LET ME BACK UP. IF THE SITUATION OCCURS THAT THERE IS A FINAL GROUP OF SUPPLEMENTARY PROCEDURES THAT DO NOT HAVE A PERIOD OF REPOSE IN IT, WE COULD DRAFT THAT SET OF RULES IN A WAY THAT ALLOWED A TRANSITIONARY TIME SO ANYONE WHO HAD THEIR 120 EXPIRE DURING THE PERIOD OF INTERIM RULES, SO THEY COULDN'T HAVE FIT IN BUT THEY WOULD HAVE IF WE DIDN'T HAVE A PERIOD OF REPOSE, SO WE COULD WILD IN A TRANSITIONARY GROUPING TO COVER THAT VERY SMALL SUBSET OF PEOPLE. I DON'T THINK THAT WOULD BE A PROBLEM.

>> OKAY, THANK YOU, SAM. AND THE REASON -- I THINK THAT WOULD BE -- IF WE TAKE YOUR APPROACH, AND I LIKE YOUR APPROACH BECAUSE IT PUTS RULES OUT THERE FOR EVERYTHING. IF WE TAKE YOUR APPROACH, I THINK SUCH A CARVE OUT IN THIS TRANSITIONARY PERIOD WOULD MAKE SENSE AND WOULD NOT SORT OF SUBJECT SOMEONE

TO SORT OF AN ODD AND POSSIBLY UNFAIR RESULT WHILE WE'RE WRESTLING WITH THE REPOSE ISSUE. SO IF I COULD ASK YOU TO MAYBE SORT OF COME TO THE LIST IN -- BEFORE THE NEXT CALL AND SAY BASED ON DISCUSSIONS WE HAD ABOUT THIS, THIS MAY BE A WAY AROUND THAT, THAT WOULD ALLOW US TO ISSUE THESE RULES.

>> GOT IT.

>> I'M SORRY?

>> I SAID GOT IT. UNDERSTOOD.

>> OKAY. THAT WAY WE MAY BE ABLE TO USE YOUR APPROACH AND BETWEEN THIS CALL AND THE CALL NEXT THURSDAY WE COULD PROBABLY, YOU KNOW, TWEAK THE LANGUAGE ON THINGS LIKE MAYBE ON TRANSLATION, MAYBE ON TYPES OF HEARINGS. I SUSPECT THAT FOR PUBLIC CONSULT WE'RE PROBABLY GOING TO ONLY GO TO PUBLIC CONSULT ON REPOSE AND WE MAY BE ABLE TO SORT OF WORKOUT THE ISSUES ON TYPES OF HEARINGS AND THE OTHERS AMONGST OURSELVES. SO THAT'S WHY I FEEL THAT WE'RE VERY CLOSE. AND SO, I APPRECIATE YOU -- YOUR COMMENT ABOUT MAKING A TRANSITIONAL CARVE AUTO TO PROTECT PEOPLE WHILE WE WRESTLE WITH THESE ISSUES. AND THAT MAKES YOUR PROPOSAL WITH THE INTERIM RULES I THINK MORE PALATABLE AND PROBABLY, YOU KNOW, AVOID ANY OBJECTIONS. HOWEVER, I THAN WANT TO GO TO THE GROUP AND I SEE THERE'S ONE HAND UP. SO I'M GOING TO GO TO KAVOUSS. GO AHEAD, YOU HAVE THE CALL.

>> DO YOU HEAR ME?

>> YES I DO.

>> GOOD EVENING, GOOD AFTERNOON, GOOD MORNING TO EVERYBODY. I THINK WE ARE WORRYING TOO MUCH ABOUT THIS. THIS IS SOMETHING WE HAVE TO TAKE IN THE MEANTIME TILL DEFINITIVE ACTION. I DON'T THINK WE SHOULD [INDISCERNIBLE] AND [INDISCERNIBLE]. THANK YOU.

>> THANK YOU, KAVOUSS. I THINK YOU STATE A VERY GOOD PRINCIPLE BUT I THINK IT WOULD BE INTERESTING TO SEE WHAT SAM SUGGESTS ON A CARVE OUT, BECAUSE THE INTERIM RULE WILL HAVE A ONE YEAR CAP AND 45 DAY CAP. AND I THINK WE NEED TO, YOU KNOW, JUST CONSIDER PEOPLE THAT MIGHT FALL INTO THAT LITTLE NARROW NICHE. BUT I TAKE YOUR POINT AND I SUSPECT THE LANGUAGE THAT MIGHT AMELIORATE THAT PROBLEM COULD BE SHORT AND SWEET. SO LET'S JUST SEE WHAT SAM COMES UP WITH ON LIST AND WE CAN DISCUSS IT NEXT WEEK AND HOPEFULLY FINISH IT NEXT WEEK.

>> AND DAVID, JUST TO CONFIRM, THE RULE THAT WE PROPOSED IN THE INTERIM RULE WAS NOT THE 45 DAY, IT WAS THE 120 DAY. BECAUSE --

>> NO, THAT'S RIGHT. I'M SORRY.

>> MODIFIED TO REFLECT THE INTERIM CONVERSATION OF THE IOT.

>> THAT'S COMPLETELY RIGHT. I MISSTATED IT AND FORGOT. SO THANK YOU, SAM. LET ME SEE IF ANYONE ELSE HAS A HAND -- IN THE MEANTIME WHILE WE'RE TALKING ABOUT REPOSE AND SENDING THAT OUT TO PUBLIC COMMENT, I DO THINK THAT, YOU KNOW, IT'S GOING TO GARNER PUBLIC COMMENTS, WHAT WE PUT OUT THERE, THE LANGUAGE I READ A FEW MOMENTS AGO. SAM, CAN I ASK YOU IF YOU PLAN TO -- ARE ICANN'S PLANS TO MAKE PUBLIC COMMENT TO MAKE YOUR POINT OF VIEW KNOWN IN THAT CONTEXT? OR I THINK YOU AT ONE POINT MENTIONED A MINORITY STATEMENT BUT I DON'T KNOW THAT'S THE WAY YOU WERE GOING. COULD YOU CLARIFY THAT?

>> DEPENDING ON THE TIMING OF WHEN THE PUBLIC COMMENT IS GOING TO GO OUT I DON'T KNOW IF WE INCLUDE IT AS A MINORITY STATEMENT IN THE PUBLIC COMMENT, BUT WE WOULD DEFINITELY VERY EARLY ON WITHIN THE PUBLIC COMMENT PROCEEDING MAKE ICANN'S POSITION KNOWN.

>> THANK YOU. AND I ALSO APPRECIATE THE COMMENT ABOUT VERY EARLY ON. BECAUSE, THAT HELPS PEOPLE THAT ARE CONSIDERING THEIR OWN PUBLIC COMMENTS. AND WITH RESPECT TO TIMING, OBVIOUSLY WE'VE SPOKEN IN THE LAST COUPLE WEEKS ABOUT TRYING TO GET SOMETHING OUT FOR PUBLIC COMMENT, QUICKLY. IN ORDER TO AVOID THE SUMMER WHERE NO ONE IS PAYING ATTENTION. AND SO THAT'S WHY MY HOPE IS THAT NOW THAT WE'VE CONFIRMED A LANGUAGE, SORT OF A SECOND READING NEXT WEEK WE'LL BE ABLE TO GET THIS OUT. I DO THINK BERNIE YOU CAN START WORKING ON THE SORT OF WRAPPER THAT GOES AROUND THE LANGUAGE AND I THINK WE'RE CLOSE TO ISSUING THAT. NOW DOES ANYBODY ELSE HAVE ANY COMMENTS ON AGENDA ITEM NUMBER 3, INTERIM RULES? I BETTER LOOK FOREHANDS. I DON'T SEE ANY. SO WHAT I WOULD LIKE TO SUGGEST AND URGE IS THAT ALL OF US ON THE CALL AND I'LL ASK FOR THIS ON THE LIST, GO BACK AND READ SAM'S DOCUMENT, HER INTERIM RULES. I GAVE AN EMAIL LINK TO IT LEADING UP TO THIS CALL. AND IF THERE'S ANY FINAL COMMENTS, MAKE THEM ON THE LIST. WE WANT TO CONFIRM THIS NEXT WEEK AND GET IT OUT. WE CAN DISCUSS IT NEXT WEEK BUT WE WANT TO MOVE THIS ALONG. AND WE'RE DOING, I THINK WE'RE DOING MUCH BETTER IN THAT RESPECT AND NOW IT'S TIME -- I THINK IT'S BASICALLY TIME TO CLOSE ON THESE ISSUES. SO, IF THERE'S NOTHING FURTHER ON AGENDA ITEM NUMBER 3, WE CAN TURN TO AGENDA ITEM NUMBER 4. THIS IS TYPES OF HEARINGS. AND I MENTIONED IN THE EMAIL THAT I'LL SET THIS UP. I'M SORRY THAT MALCOM IS NOT ON THE CALL, EXCUSE ME. HERE IS THE ISSUE ON TYPES OF HEARINGS. AND YOU'VE GOT THE LINKS TO THE MAIL. I ACTUALLY THOUGHT THAT WE HAD CAPTURED WHAT MAKES SENSE FOR HEARINGS IN OUR ORIGINAL DRAFT OF THE NEW SUPPLEMENTARY PROCEDURES, RULE NUMBER 5, WHICH IS CALLED CONDUCT OF THE INDEPENDENT REVIEW. AND IN THAT RULE, AND RICHARD HILL MADE THAT COMMENT IN PUBLIC COMMENTS. AND MY EMAIL OF JANUARY 2 I BASICALLY SAID I AGREE WITH RICHARD HILL'S COMMENTS. NOT A LOT -- BUT SOME PEOPLE HAD OTHER VIEWS ON THIS. IN FACT SOME WANTED SORT OF LIKE PEOPLE TO ASSEMBLE FOR A TRIAL ALMOST. AS I RECALL. BUT, I WAS OF THE VIEW THAT NO, I THOUGHT WE CAPTURED IT CORRECTLY. WHERE WE STATED THAT, YOU KNOW, IT'S BETTER TO DO THESE THINGS EXPEDITIOUSLY AT A REASONABLY LOW COST WHILE ENSURING FUNDAMENTAL FAIRNESS. THAT'S WHAT THE RULE SAYS AND DUE PROCESS CONSISTENT WITH PURPOSE OF THE IRP. THAT'S THE DIRECTION THAT'S BEING GIVEN TO THE PANEL. AND WE ALLOW FOR "HEARINGS" TYPICALLY, THESE WOULD BE VIRTUAL HEARINGS, I BELIEVE, ELECTRONIC HEARINGS OF SOME SORT, IN EXTRAORDINARY CIRCUMSTANCES. AND THOSE EXTRAORDINARY CIRCUMSTANCES WERE BOUNDED BY -- THIS IS THE EXISTING RULE -- BOUNDED BY THE HEARING BEING NECESSARY FOR A FAIR RESOLUTION, THE HEARING BEING NECESSARY TO FURTHER THE PURPOSES OF THE IRP, AND CONSIDERATIONS OF FAIRNESS IN FURTHERANCE OF THE IRP OUTWEIGH THE TIME AND COST OF AN IN-PERSON HEARING. THOSE ARE THE DIRECTIONS GIVEN TO THE PANEL BUT AS YOU CAN SEE THE DISCRETION IS THE PANEL'S. I THOUGHT THAT WAS A GOOD IDEA. MALCOLM CAME BACK AND THOUGHT THAT WAS NOT QUITE RIGHT AND HE GAVE US A DETAILED STRAWMAN. AND HE ALSO MENTIONED OTHER PRINCIPLES, YOU KNOW, BEING CONSISTENT

WITH PRINCIPLES OF COST MINIMUMIZATION AND THINGS LIKE THAT. I WOULD ENCOURAGE ALL OF YOU TO LOOK AT THE STRAWMAN HE POSTED ON HIS MAIL IN EARLY JANUARY. IT'S VERY WELL DRAFTED. I PERSONALLY THOUGHT IT WAS TOO DETAILED. IT'S MUCH MORE DETAILED THAN A PANEL NEEDS. I THOUGHT IT WOULD ALMOST BE FAIRER TO SAY TO THE PANEL, LOOK, WE WANT THE IRP TO BE RUN COST EFFICIENT, COST MINIMIZATION, FUNDAMENTALLY FAIR TO BOTH SIDES. SO, THAT'S THE NUB OF THIS. SO I WAS GOING TO ASK IF PEOPLE ON THIS CALL WOULD LIKE TO WEIGH IN ON THIS. I KNOW -- I'M HOPING MALCOLM WILL BE ON NEXT WEEK'S CALL AND I'LL ENGAGE HIM ON THE LIST. BUT MY BELIEF IS THE DIFFERENCES BETWEEN MALCOLM AND MYSELF ON THIS ARE NOT GREAT AND CAN BE WORKED OUT AND WE WILL PROBABLY NOT NEED TO SEND THIS OUT TO PUBLIC COMMENT. BUT, WE'RE NOW ON THE PHONE AND THAT'S THE ISSUE AS I SORT OF DESCRIBED IT, I HOPE IT'S COMPREHENSIBLE. SO I WILL ASK IF ANYBODY WOULD LIKE TO WEIGH IN ON THIS. ARE THERE PEOPLE HERE THAT BELIEVE WITH MALCOLM WE NEED TO HAMMER OUT SOMETHING MORE SPECIFIC AND IT MAY BE UNFAIR IF YOU HAVEN'T READ THE STRAWMAN. I URGE YOU TO DO THAT BUT MY POSITION IS DEFINITELY THAT WE CAPTURED THIS, THE DIRECTION IS RIGHT, FUNDAMENTALLY FAIR WHILE COST MINIMIZATION, NO IN-PERSON HEARING, WHATEVER IT IS, YOU CAN REREAD THOSE. LIZ, GO AHEAD.

>> THANKS, DAVID. SO THIS IS LIZ WITH ICANN FOR THE RECORD. AND I THINK THAT ICANN EXPRESSED ITS OPINION AS IT RELATES TO THE PROPOSED STRAWMAN ON THE RECORD AT THE JANUARY 11, 2018 MEETING. AND THAT BEING THIS IS AN ISSUE THAT HAS BEEN DISCUSSED AT NAUSEUM AND DEBATED AND CAME TO AGREEMENT WHEN THE ISSUE WENT OUT FOR THE FIRST ROUND OF PUBLIC COMMENT. WHICH IS THAT THE DEFAULT IS FOR EXPEDIENCY AND FAIRNESS, IS TO NOT HAVE LIVE HEARING. AND I THINK THAT ARGUMENT THAT MALCOLM SUGGESTS THAT IS BASED UPON THE PREMISE THAT THERE SHOULD BE LIVE WITNESS TESTIMONY, BECAUSE WITHOUT SUCH THERE WOULD NOT BE A FAIR HEARING. BUT, I HAVEN'T SEEN -- WE HAVEN'T SEEN ANY EVIDENCE TO SUPPORT THAT. AND ACTUALLY ON THE CONTRARY, YOU KNOW, IN TERMS OF EVIDENCE, THIS IS THE WAY THAT PRACTITIONERS ARE GOING IN TERMS OF MANY DISPUTE MECHANISMS ARE GOING IN THE WAY WHERE THEY'RE DISPENSING WITH LANGUAGES AND TESTIMONIES IN HEARINGS. IT DOESN'T -- JUST BECAUSE THERE ISN'T -- JUST BECAUSE THERE ISN'T LIVE WITNESS TESTIMONY DOESN'T MEAN THERE ISN'T A FAIR HEARING. INCREASINGLY MANY ARBITRATION OR DISPUTE RESOLUTION PROCEEDINGS IN LIEU OF LIVE WITNESS TESTIMONY THERE IS A WITNESS STATEMENT OFFERED AHEAD OF TIME. AND THERE'S A LOT OF ADVANTAGES TO THIS AS WE'VE PREVIOUSLY NOTED. IT WOULD ALLOW THE WITNESS TO GIVE TESTIMONY WITHOUT TRAVELING TO A HEARING. IT MAKES IT EASIER TO OBTAIN THE TESTIMONY. BECAUSE THE WITNESSES CAN BE PREPARED AHEAD OF TIME. AND FRANKLY IT WOULD BE LESS DISRUPTIVE TO THE WITNESSES OR THE EXECUTIVES IN TERMS OF THEIR NORMAL DAY-TO-DAY FUNCTIONS. ALSO, I THINK WITH RESPECT TO THE CONCERN ABOUT EFFICIENCY AND COST, I KNOW THAT WE SHARED IN THE PAST THAT THERE ARE EXTRAORDINARY COSTS IN CASES WHERE WE'VE HAD IRP HEARINGS AND LIVE WITNESS TESTIMONIES. OVER A MILLION DOLLARS IN ONE INSTANCE AND OVER \$2 MILLION IN ANOTHER INSTANCE. SO, FROM OUR STANDPOINT WE'RE TALKING ABOUT SPENDING THE KIND OF MONEY THAT FOR A LIVE WITNESS TESTIMONY WAS OF NO BENEFIT AND IT'S MONEY THAT ICANN WOULD SPEND AND TAKE LESS AWAY FROM -- MONEY ICANN CAN USE TO SERVE ITS MISSION TO THE COMMUNITY. SO FROM OUR STANDPOINT, THERE IS

NO NEED TO CHANGE WHAT IS CURRENTLY IN THE RULES THAT WAS PUT OUT FOR PUBLIC COMMENTS AND THAT WAS PREVIOUSLY AGREED UPON.

>> THANK YOU, LIZ. IT'S DAVID MCAULEY SPEAKING AGAIN. BY THE WAY MY COMMENTS SUBSTANTIVELY HERE ARE AS A PARTICIPANT, NOT AS A LEADER OF THIS GROUP. LIZ, THOSE NUMBERS YOU MENTIONED, 1 AND 2 MILLION, I MISSED A LITTLE BIT. ARE YOU SAYING THOSE WERE THE AMOUNTS THAT SORT OF -- THAT'S WHAT IT GOT TO BECAUSE THERE WAS LIVE WITNESS TESTIMONY OR SOMETHING? COULD YOU EXPLAIN WHAT --

>> THAT'S RIGHT.

>> I'M SORRY?

>> YES, THAT'S EXACTLY RIGHT. THEY EXCEEDED IN ONE INSTANCE EXCEEDED \$1 MILLION AND ANOTHER INSTANCE EXCEEDED \$2 MILLION BECAUSE OF LIVE WITNESS TESTIMONY AT THE HEARING.

>> THIS IS SAM. ONE OF THE THINGS IT DOES IS INCREASES THE TIME OF THE HEARING. AND SO, YOU HAVE MULTIPLE ATTORNEYS, MULTIPLE ATTORNEYS TEND TO BE THERE SO THEY'RE EACH BILLING FOR THEIR DAYS PLUS THE NIGHTLY PREPARATION FOR THE NEXT DAY. AND THEN IT ALSO -- IT ALSO THEN ADDS ON TO THE END OF WHEN THE PANELISTS ARE REVIEWING EVERYTHING SO IT ADDS TO THE PANEL HOURS AS WELL. FROM -- MOST OF THE PEOPLE WHO HAD MADE -- I'M JUST GOING OFF RECOLLECTION BUT I BELIEVE THAT MOST OF THE PEOPLE WHO PRESENTED LIVE WITNESS TESTIMONY WERE ALSO PEOPLE FOR WHICH WITNESS STATEMENTS HAD BEEN PRESENTED. AND SO, WE KNOW THAT THERE'S A COST TO PRESENTING WITNESS STATEMENTS AND PREPARING THOSE AND HAVING THE PANEL LOOK AT THOSE. BUT THERE HAVE BEEN WITNESS STATEMENTS AND THEN -- THEN THERE WAS FURTHER LIVE WITNESS TESTIMONY. AND SO THAT ADDED TO THE TIME AFTER THE HEARING, BEFORE THE PANEL TO REVIEW. SO THERE'S HOURLY COSTS ASSOCIATED WITH THAT AND ALSO EXTENDED THE TIME FOR ICANN AND THE CLAIMANT TO RECEIVE THE PANEL'S DECLARATION.

>> THANK YOU, LIZ AND SAM. THIS IS DAVID SPEAKING. AS A FORMER LITIGATOR, I MIGHT HAVE TO RENEW MY LEGAL LICENSE AND GET MY CLE HOURS BASED ON HEARING THESE NUMBERS. OH, THAT'S A LAME ATTEMPT AT HUMOR. BUT SPEAKING AS A PARTICIPANT, YOU KNOW IT MIGHT BE WORTH WHILE FOR YOU TO PUT THOSE KIND OF EXAMPLES ON THE LIST. I AS A PARTICIPANT TEND TO BE IN THE CAMP THAT ICANN IS. I THINK THAT IT'S IMPORTANT TO RECOGNIZE THAT PEOPLE CONTINUE TO HAVE A REMEDY. THEY CAN GO TO COURT IF THEY WISH. BUT, THAT THE ARBITRATION SYSTEM WITHIN THE ICANN CONTEXT IS MEANT TO BE EFFICIENT, FAIR AND LOWER COST THEN LITIGATION. AND SO, I TEND TO AGREE. HAVING SAID THAT, MALCOLM MAKES GOOD POINTS. AS I UNDERSTAND HIS POINTS THEY ARE BASICALLY LET'S MAKE SURE WE STATE THE CORRECT PRINCIPLES. AND WE'VE STATED THE PRINCIPLES THAT I READ EARLIER, YOU KNOW, ACCESSIBILITY, FAIRNESS, SUFFICIENCY, ET CETERA AND I THINK WE SHOULD AND I'LL PROBABLY ASK MALCOLM TO TAKE HIS STRAWMAN AND BOIL IT DOWN TO PLAINS WE MIGHT LOOK AT OUR RULE AND MAKE SURE OUR RULE CAPTURES. SO THANK YOU FOR THOSE COMMENTS. I WILL LOOK IN ZOOM NOW AND SEE IF THERE'S ANY OTHER HANDS UP. I DON'T SEE ANY. THAT'S HOW I PROPOSE TO PROCEED. AND I ACTUALLY THINK THAT WE'LL PROBABLY BE ABLE TO -- DEFINITELY AS A PARTICIPANT I FIRMLY SUPPORT WHAT I PUT IN MY OWN EMAIL OF EARLY JANUARY. THAT IS, I THINK THE RULE IS IN GOOD SHAPE. WE MIGHT TWEAK LANGUAGE IF WE HAVEN'T CAPTURED ALL THE APPROPRIATE

PRINCIPLES. BUT THE APPROPRIATE PRINCIPLES WOULD BE BETTER THAN THE STRAWMAN. AND NOT SEEING ANY HANDS RIGHT NOW, I GUESS WE CAN MOVE TO AGENDA ITEM NUMBER 5. OTHER ISSUES. TRANSLATION YOU'VE SPOKEN TO, SAM. I THINK WE SHOULD -- IF YOU HAVEN'T YET READ SAM'S EMAIL AND I'M ONE OF THOSE, THEN THOSE WHO HAVEN'T, INCLUDING ME, SHOULD COMMIT TO DO THAT IN THE NEXT DAY OR SO AND COME ON LIST WITH REACTIONS TO IT AND WE'LL BRING IT UP NEXT WEEK. WHAT ABOUT JOINDER, SAM AND LIZ? LET ME -- BEFORE I PUT YOU ON THE SPOT LIKE THAT LET ME ASK YOU, I KNOW YOU MENTIONED YOU HAVE A CONCERN AS YOU STATED IN AN EMAIL AND I FORGET THE DATE. COULD I ASK YOU TO STATE THE CONCERNS CONCISELY ON THE LIST AGAIN? I HAVEN'T HAD A CHANCE TO GO BACK AND LOOK AT THE EMAIL THAT YOU REFERENCED I THINK IN A CALL OR TWO CALLS AGO. AS I SORT OF STRUGGLE WITH MY SYSTEM PROBLEMS. BUT, IS THAT -- DID I STATE THAT CORRECTLY OR WHAT? WHAT IS THE CONCERN WITH JOINDER?

>> I THINK WE NEED TO GO AND LOOK AT THIS AND WE'LL GET BACK TO YOU -- TO THE LIST QUICKLY ON THIS. I THINK WE HAD -- AND I APOLOGIZE BECAUSE I WAS NOT ABLE TO ATTEND LAST WEEK'S SESSIONS SO I'M NOT SURE IF YOU HAD CONVERSATIONS IT THERE. BUT I HAVE ON JOINDER WHAT WE HAD PUT FORWARD IN THE INTERIM RULES MIGHT ALSO BE REFLECTIVE OF ICANN'S POSITION. SO WE'LL TAKE A LOOK AND SEE IF THERE'S CONVERGENCE BETWEEN WHERE ICANN WAS AND THE OTHER PARTIES. BECAUSE AGAIN WE WEREN'T USING THE INTERIM RULES AS A WAY TO FORWARD ICANN'S POSITION BUT WE BUTT IT IN BECAUSE I THOUGHT IT WAS A PLACE WHERE WE WERE WELL ALIGNED ON IT.

>> OKAY. LET'S CONFIRM THAT NEXT WEEK. COME BACK TO THE LIST AND SORT OF STATE THAT AND SHOW US WHERE, SO THAT WE CAN HAVE A SORT OF TO THE POINT DISCUSSION ABOUT IT.

>> OKAY. SOUNDS GOOD.

>> THANKS! WE'RE BASICALLY DONE. WE'LL PROBABLY GET DONE WITH THIS CALL EARLY. BUT I WANT TO AGAIN ASK IF ANYBODY WOULD LIKE TO MAKE A COMMENT OR HAS A QUESTION ABOUT WHAT WE'VE BEEN DISCUSSING. I DON'T SEE ANY HANDS.

>> DAVID, THIS IS CHERINE. I WOULD LIKE TO MAKE A COMMENT IF POSSIBLE.

>> YES, GO AHEAD, THANK YOU.

>> OKAY. I WANT TO MAKE A COMMENT ABOUT THE COOPERATIVE ENGAGEMENT PROCESS. YOU THINK IT'S APPROPRIATE TO TALK ABOUT IT NOW?

>> I THINK IT WOULD BE AND THE REASON I SAY THAT IS THAT IS ON OUR AGENDA, THE COOPERATIVE ENGAGEMENT PROCESS SUBGROUP IN THE WORK STREAM 2, SORT OF ASKED IF WE WOULD PICK UP THAT WORK. WE AGREED TO BUT WE HAVEN'T STARTED IT YET. OUR VIEW IS WE HAVE TO HAMMER OUT THESE RULES THEN WE TURN TO THE NEXT ITEM OF WORK AND I WILL SEND -- I WILL SEND A REMINDER TO THIS LIST AND TO YOU CHERINE AS TO WHAT REMAINING WORK WE HAVE BUT HIGH ON THE LIST IS CEP.

>> THANK YOU. SO I HAD KIND OF 3 QUESTIONS ON MY MIND REGARDING THE COOPERATIVE ENGAGEMENT PROCESS. I DO AGREE WE DID SAY WE'LL START ONCE THE SUPPLEMENTAL RULES ARE DONE. THE QUESTION IS DEFINE WHEN DONE. IS IT ONCE THE INTERIM RULES ARE IN PLACE FOR EXAMPLE, MEANING IN THE NEXT COUPLE WEEKS? OR NEXT WEEK? OR IS IT IN 3-4 MONTHS AFTER THE PUBLIC CONSULTATION ON THE TIME TO FILE TAKES PLACE? IT WOULD BE GOOD TO EXPLORE THAT. THE SECOND QUESTION IS ON THE COMPOSITION OF THE TEAM, WE WILL CALL IT. WOULD IT BE THE SAME TEAM, THE IOT TEAM OR WOULD YOU --

IS THERE A GOOD OBJECTIVE OR REASON TO RECONSTITUTE AND INJECT NEW BLOOD AND REFRESH THE TEAM? AND THE THIRD QUESTION WOULD BE ON THE LEADERSHIP WILL BE YOURSELF AND YOU'VE DONE A BRILLIANT JOB ON THIS AND PERSONALLY I THINK IT WOULD BE GREAT IF YOU WOULD CONTINUE BUT WOULD YOU WANT SOME COCHAIRS TO TAKE SOME OF THE WORK LOAD OFF YOU AND SO ON. SO I WOULD LIKE THOSE 3 THINGS TO BE EXPLORED EITHER -- I SUPPOSE NOT BUT WE HAVE A FEW MINUTES LEFT. MAYBE YOU CAN RESPOND QUICKLY OR LEAVE IT FOR ANOTHER CALL OR COLLECT INFORMATION AS YOU SEE FIT: THANK YOU.

>> THANK YOU CHERINE. THOSE ARE VERY APT QUESTIONS. AS LEADER OF THE GROUP I WILL ASK OTHERS ON THIS CALL AND WHO LISTEN TO THIS CALL TO SORT OF GIVE THEIR THOUGHTS AS WELL. BUT FIRST, WITH RESPECT TO WORKING ON CEP AND WHAT DOES BEING DONE MEAN WITH THE SUPPLEMENTAL RULES. WE HAVE A PILE OF WORK TO DO. AND I NEED TO REMIND OUR GROUP OF THE THINGS -- AND I'LL DO IT ANNOTATED. IN OTHER WORDS, I'LL SAY IN THE NEXT DAY OR SO, I'VE DONE THIS ONCE BEFORE, I'LL COME BACK TO THE LIST AND SAY HERE'S THE WORK REMAINING ONCE THE SUPPLEMENTAL RULES ARE "DONE" AND I'LL ANNOTATE IT BY LAW SECTION TO PEOPLE GO SEE THAT SECTION. BUT IT IS A PILE OF WORK AND THE CEP IS ON TOP OF IT. AND SO, WHAT I MEAN BY DONE IS ONCE WE ISSUE INTERIM RULES AND PUBLIC CONSULT WE WILL HAVE A PERIOD OF TIME THAT WE CAN TURN OUR ATTENTION TO SOMETHING ELSE. AND I THINK THAT WE SHOULD. WHATEVER WE TURNS OUT TO BE AND I'LL COMMENT ON THAT IN A MINUTE. AND SO WE SHOULD PRESS ON WITH MEETINGS. WE WERE ROUGHLY MEETING EVERY OTHER WEEK. I THINK WE SHOULD CONTINUE THAT. COME TO LIST WITH THE ISSUES, MOVE ON CEP, MOVE ON RULES FOR APPEAL, MOVE ON WHAT HAPPENS IF ICANN DOESN'T ENGAGE IN AN IRP. BUT THE BY LAW SORT OF SAYS HERE IS WHAT THE IOT WILL BE WORKING ON. AND SO THAT'S MY SUGGESTION. SECOND, SO I DEFINE DONE AS BEING WHEN WE HAVE TIME, WHICH WILL BE SOONER RATHER THAN LATER. WE WILL GET TO THIS AS SOON AS WE HAVE THE RULES, INTERIM RULES OUT AND THE PUBLIC CONSULT OUT. THEY WON'T BE FINAL YET BUT WE CAN THEN TURN OUR ATTENTION ELSEWHERE FOR A WHILE. WITH RESPECT TO COMPOSITION OF THE TEAM, WE HAVE SOME MEMBERS THAT REALLY DON'T PARTICIPATE AND MAY WELCOME A CHANCE TO EXIT AND IT MIGHT BE A GOOD TIME FOR THE GROUP TO ASK FOR OTHERS TO PARTICIPATE. I GUESS WE HAVE TO THINK THAT THROUGH AND DISCUSS IT. I PERSONALLY THINK THAT MIGHT BE A GOOD IDEA. WE HAVE A WORK GROUP ON THIS PHONE CALL AND INCLUDES A COUPLE OF OTHERS, MALCOLM, GREG, PEOPLE I MIGHT BE FORGETTING RIGHT NOW BUT WHO HAVE PITCHED IN AND HELP AND SOME THEIR INTEREST LIES ELSEWHERE. THIS IS NOT SAID AS CRITICISM. I KNOW EVERYBODY IS BUSY. IT MIGHT BE A GOOD TIME TO LOOK AT THAT ISSUE OF RECOMPOSITION, RECONSTITUTION. AND WITH RESPECT TO LEADERSHIP, I WOULD BE HAPPY TO PRESS ON. BUT, IF FOLKS FELT THAT WE NEEDED A CHANGE AND ASKED ME TO STEP ASIDE, I WOULD DO WHAT'S BEST. I LIKE THIS GROUP. I LIKE -- I LOVE THIS IRP. I THINK IT'S A GOOD THING FOR ICANN. I WOULD LIKE TO HELP GET IT TO FRUITION AND BE INSTRUMENTAL IN THAT SO I'M HAPPY TO PRESS ON AS A LEADER. THERE MIGHT BE OTHERS. BUT IF THE GROUP FELT THAT I SHOULD SORT OF BECOME A PARTICIPANT, I'LL BE OPEN TO ANYTHING, REALLY. SO THOSE ARE MY COMMENTS. I'M LOOKING FOR HANDS AND I DON'T SEE ANY. CHERINE YOU HAVE ANYTHING YOU WANT TO SAY IN

RESPONSE. OR ANYBODY ELSE I ENCOURAGE YOU TO THINK ABOUT THIS. THESE ARE IMPORTANT AS MENTIONED.

>> THANK YOU. IF I CAN JUST MAKE A COMMENT. I WANT TO THANK YOU FOR YOUR CANDID RESPONSE. HOW WILL YOU MOVE THE 3 ITEMS? ARE YOU GOING TO WRITE TO THE GROUP? LEAVE IT FOR A WHILE? WHAT'S YOUR PLAN?

>> I THINK WHAT I'LL DO IS WRITE TO THE GROUP BUT PROBABLY NOT THIS WEEK. I WOULD LIKE TO GET TO NEXT WEEK'S PHONE CALL WITH OUR FOCUS ON THE RULES. THEN AFTER NEXT WEEK, I THINK WHAT MIGHT BE AN APPROPRIATE TIME, IT WILL BE THE EARLY PART OF JUNE. I THINK I'LL COME TO THE LIST AND MAYBE I'LL REMIND US OF OUR PILE OF WORK. I HAVE A LIST SOMEWHERE AND I'VE SENT IT OUT BEFORE AND I'LL SAY, BY THE WAY, RECALL THAT AS WE'RE COMING TO CLOSURE ON THESE RULES, FOR NOW, WE HAVE THESE OUR THINGS IN THE BACKGROUND WE WILL START TURNING OUR ATTENTION TO, AND HERE ARE SOME THINGS TO THINK ABOUT. YOU KNOW, UM, SHOULD WE RECOMPOSE -- SHOULD WE ASK THE TEAM BE RECONSTITUTED? SHOULD WE LOOK AT LEADERSHIP? THOSE KIND OF THINGS. BUT I PROBABLY WON'T DO IT THIS WEEK.

>> THANK YOU. THANK YOU. THANK YOU, CHERINE. AVRI HAS A HAND UP. YOU HAVE THE FLOOR.

>> THANK YOU. THIS IS AVRI SPEAKING AS A PARTICIPANT. AND I GUESS ONE FOR A LONG TIME NOW. I ACTUALLY THINK THAT CONTINUING THE WORK WITH THIS GROUP MAKES THE MOST SENSE. I THINK ON A LOT OF THE ISSUES THAT WE STILL HAVE WORK TO BE DONE, THERE HAVE BEEN CONVERSATIONS ALREADY, THERE HAS BEEN WORK ALREADY AND WHILE THE CEP ISSUE IS NEW, SOME OF US WERE ACTUALLY ON THE CEP GROUP THAT CLOSED. I DO THINK GIVEN THE SMALL NUMBER OF US THAT APPEAR AT THE MEETINGS MOST WEEKS, THAT, YOU KNOW, OPENING UP FOR SOME EXCHANGE -- NOW I DON'T REMEMBER AND MAYBE SOMEONE ELSE DOES, WHETHER THIS GROUP WAS PURELY VOLUNTARY OR WHETHER THERE WAS ANY CONSULTATION WITH THE SO'S, AC'S IN PUTTING IT TOGETHER. BUT WE WOULD NEED TO BE SURE OF BECAUSE IF IT HAD BEEN CONSTITUTED BY THEM, THEN WE WOULD HAVE TO GO BACK TO THEM. I DON'T THINK IT WAS. BUT I DON'T REMEMBER FOR SURE. UM, AND, WITH THE AMOUNT OF WORK YOU'RE DOING, IF YOU'RE WILLING TO KEEP DOING IT, I CERTAINLY WOULD BE STRONGLY IN FAVOR OF YOU CONTINUING AND IF YOU WANTED THERE TO BE A CO- OR VICE CHAIR, THAT WOULD BE SOMETHING THAT THE GROUP SHOULD CERTAINLY ENTERTAIN. THANKS.

>> THANK YOU, AVRI. IT'S DAVID MCAULEY SPEAKING AGAIN. JUST TO ANSWER THE LAST ONE FIRST. I PROBABLY COULD USE THE HELP OF A COCHAIR, IF I STAY, WHICH I'M HAPPY TO DO. LET ME ASK BERNIE, BERNIE DO YOU HAVE INSIGHTS AS TO HOW THE GROUP WAS ORIGINALLY CONSTITUTED? I HAVE RECOLLECTIONS BUT THEY'RE PROBABLY NOT AS GOOD AS YOURS.

>> CAN YOU HEAR ME, DAVID?

>> YES, LOUD AND CLEAR.

>> OKAY. I BELIEVE THERE WERE ORIGINALLY CRITERIA, WHICH WERE ASKED OF THE -- IF I REMEMBER CORRECTLY, IT WAS SORT OF A COMBINATION OF ASKING PEOPLE WHO WERE INTERESTED AND ASKING PEOPLE WHO WERE QUALIFIED. AND THE COCHAIRS TOOK ON THE CCW ACCOUNTABILITY, THEY TOOK ON THE TRAFFIC OF LOOKING AT THE APPLICATIONS AND MAKING THE RECOMMENDATIONS FOR THE IOT. AND I BELIEVE THAT ONCE WE DID (TASK)

CALL FOR INTEREST, WE REVIEWED THOSE PARTICIPANTS THAT APPLIED, I BELIEVE THAT MOST OF THE PEOPLE GOT ON AND THAT'S HOW THE IOT GOT CONSTITUTED. THANK YOU.

>> THANKS, VERY MUCH BERNIE. SAM, I SAW YOUR HAND. BUT I DON'T SEE IT NOW. DID YOU WANT TO MAKE A COMMENT?

>> I CONCUR WITH BERNIE'S RECOLLECTION. WE HAD SOME SPECIFIC FOCUS THAT WENT OUT ASKING FOR THEM TO IDENTIFY PEOPLE WHO WERE -- WHO HAD SOME PROFICIENCY. I DON'T REMEMBER THE QUALIFICATIONS THAT WE GAVE. BUT I THINK WE WERE ASKING FOR DISPUTE RESOLUTION PROCESSES AND THINGS LIKE THAT. SO WE WERE HOPING -- WE HAD DONE THAT WITH THE INTENTION OF WORKING WITH THE SOS AND ACS TO POPULATE THE PEOPLE WITH PEOPLE WHO HAD PARTICULAR EXPERTISE RELATED TO DISPUTE RESOLUTION, SYSTEM. SO I THINK EVERYTHING THAT BERNIE SAID IS HOW I REMEMBER IT AS WELL.

>> THANK YOU. THANKS, SAM. LET ME COMMENT TO ONE OF THE POINTS YOU MADE AND THAT IS GOING BACK TO SO'S AND AC'S. I WOULD ARGUE AGAINST THAT. BUT THAT'S SOMETHING I'LL PUT ON THE LIST AND WE CAN DISCUSS. THE REASON I WOULD IS TWO FOLD. ONE IS SO'S AND AC'S HAVE THEIR HANDS FULL RIGHT NOW WITH THE STANDING PANEL AND IT'S HARD TO GET THAT STARTED, AND I WOULDN'T WANT TO SORT OF MUDDLE THAT OR DIRECT THEIR ATTENTION ELSEWHERE. BUT TWO IS, WHILE WE STARTED UNDER THE CROSS COMMUNITY WORKING GROUP ON ACCOUNTABILITY, WHEN THE BYLAWS WERE ENACTED WE MORPHED. THIS GROUP IS ACTUALLY RECOGNIZED BY THE BYLAWS. I ACTUALLY THOUGHT THAT WAS AN IMPORTANT MOMENT AND THAT'S AN IMPORTANT ASPECT OF IT. SO, I SEE US NOW AS BEING A CREATURE OF THE BYLAWS AND IF WE WANTED TO CHANGE THAT I SUSPECT ALTHOUGH WE CAN DISCUSS THIS ON THE LIST IS THAT WE WOULD SEND A LETTER TO THE BOARD SAYING WE WOULD LIKE TO REORGANIZE. I DON'T KNOW. BUT I'M NOT SO SURE WE NEED TO GO BACK TO SO'S AND AC'S. I'M NOT PERSUADED ON THAT ONE. WE'RE GETTING CLOSE TO THE TOP OF THE HOUR. ANY OTHER HANDS? I DON'T SEE ANY. ALL GOOD POINTS. SO, CHERINE, THANK YOU FOR THOSE QUESTIONS. WE WILL PUT OUR THINKING CAPS ON. DOES ANYBODY HAVE ANY OTHER BUSINESS THAT THEY WANT TO MENTION? CHERINE, ANY OTHER COMMENTS YOU WOULD LIKE TO MAKE FOR OUR CONSIDERATION?

>> NOT AT ALL, OTHER THAN THANK SO MUCH. I THINK THIS IS EXCELLENT PROGRESS ON THE SUPPLEMENTARY RULES. AS YOU SAID IT'S TIME TO CLOSE AND I THINK IF WE CAN GET THE INTERIM RULES IN PLACE AND THEN GET THE CONSULTATION, THAT WOULD BE A VERY, VERY GOOD STEP FORWARD. THANK YOU.

>> THANK YOU, CHERINE. ANYBODY ELSE WITH ANY FINAL COMMENTS? LET ME JUST SCROLL DOWN HERE. DON'T SEE ANY. LET ME THANK EVERYBODY AND AS I DESCRIBED OUR GROUP, A STELLAR GROUP OF FOLKS. I APPRECIATE IT. I REALLY DO. AND I'M HAPPY TO BE A PART OF IT. SO THANK YOU, GIVE YOU BACK 2 MINUTES OF YOUR DAY. THANKS BERNIE AND BRENDA AND WE'LL SEE YOU NEXT WEEK AND ON LIST.

>> THANK YOU, BYE BYE.