

IRP-IOT Meeting #41
7 June 2018 @ 19:00 UTC

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IRP-IOT Meeting

Thursday, June 7, 2018 -- 19:00-20:00

6 7 18 ICANN/19:00 UTC.

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CAPTIONER STANDING BY.

>> HELLO EVERYONE THIS IS DAVID MCAULEY SPEAKING. I HOPE YOU CAN HEAR ME. BUT I SEE IN THE TRANSCRIPT THAT'S TRUE. WE'RE A SMALL GROUP SO FAR SO I WILL COME BACK ON IN JUST A COUPLE MINUTES, MAYBE AS LATE AS 3 MINUTES PAST THE HOUR. SO I WILL BE ON SHORTLY. LET'S GIVE MORE FOLKS TIME TO GATHER.

>> HELLO EVERYBODY AND WELCOME. THIS IS DAVID MCAULEY SPEAKING. I BELIEVE WE HAVE A QUORUM SO START THE MEETING. SO LET ME ASK THAT THE RECORDING BE STARTED.

>> THIS MEETING IS NOW BEING RECORDED.

>> THANK YOU. HI, WELCOME. WE'RE JUST STARTED. SO WITH THAT DONE CAN I ASK IF THERE IS ANYBODY THAT'S IN ATTENDANCE ON THE AUDIO BRIDGE BUT NOT SHOWING UP IN THE ADOBE ROOM, IF THEY WOULD PLEASE IDENTIFY THEMSELVES NOW. I DON'T HEAR ANYONE. SO WE'LL PRESS ON.

>> THIS IS KAVOUSS. I CAN'T CONNECT [INDISCERNIBLE]

>> OKAY, THANK YOU KAVOUSS. I ACTUALLY SEE YOUR NAME AT THE BOTTOM OF THE LIST OF PARTICIPANTS BUT I TAKE YOUR POINT YOU'RE ON THE AUDIO ONLY. THANK YOU. AND COULD I ASK NOW IF ANYBODY HAS ANY A CHANGE OR AMENDMENT TO THEIR STATEMENT OF INTEREST. COULD THEY MENTION IT NOW? AND DON'T SEE ANY HANDS, HAVEN'T HEARD ANYTHING SO WE'LL PRESS ON TO AGENDA ITEM NUMBER 2. LAST WEEK WE DISCUSSED THIS AND CONFIRMED, I BELIEVE, THAT WE HAVE REACHED LANGUAGE FOR THE ISSUE THAT WE'RE GOING TO SEEK FOR PUBLIC COMMENT ON THE TIME FOR FILING ISSUE. SO I THINK WE'VE DONE THAT. WE'VE REACHED AN AGREEMENT ON THE BODY OF THE LANGUAGE. AND SO NOW I JUST WANT TO GET INTO A BRIEF DISCUSSION ABOUT, YOU KNOW, HOW WE DO THIS, WHAT IS THE ADMINISTRATIVE PROCESS OF GETTING SOMETHING OUT TO PUBLIC COMMENT, HOW LONG WILL THE PUBLIC COMMENT LAST, WHAT CAN WE EXPECT? AND I THINK IT'S IN ALL OF OUR INTEREST TO GET IT OUT SOON. SO, BERNIE COULD I ASK YOU TO TALK ABOUT THAT A LITTLE BIT?

>> SURE. WE HAVE TO PUT A WRAPPER AROUND THIS TEXT, WHICH IS THE STANDARD WRAPPER TO ANNOUNCE THE PUBLIC CONSULTATION. AND THEN THERE'S THE DOCUMENT WHICH WE'VE AGREED TO IN THIS FOR THE PUBLIC CONSULTATION. AND WE GOT THAT OUT. IT WILL PROBABLY TAKE ME A COUPLE OF DAYS TO GET THE WRAPPER AROUND IT. IT'S NOT

ANY NEW MATERIAL, IT'S JUST THE STANDARD STUFF WE PUT AROUND IT FOR THE PUBLIC CONSULTATION. THERE'S A FEW ELEMENTS THAT WE RUN THROUGH WITH THE RAPPOREUR AND ICANN LEGAL JUST TO MAKE SURE THAT WE'RE MEETING QUALIFICATIONS THEN WE SEND IT TO THE TEAM, THEY LOOK AT IT AND MAKE SURE IT'S OKAY THEN THEY POST IT, STANDARD CONSULTATION PERIOD IS FOR 42 DAYS OR 6 WEEKS. AFTER THAT WE HAVE A MONTH OR TWO, DEPENDING ON WHAT WE'RE LOOKING FOR TO ANALYZE THE COMMENTS AND PRODUCE A REPORT ON THE PUBLIC CONSULTATION. I'LL BE GLAD TO TAKE ANY QUESTIONS IF THERE ARE ANY.

>> THANKS, BERNIE. I DON'T SEE ANY HANDS. I HAVE A QUESTION, ONE OR TWO SMALL QUESTIONS. I TAKE IT PARDON ME I TAKE IT FROM WHAT YOU SAID THAT IN ORDER TO GET IT OUT WE'RE TALKING PROBABLY A WEEK OR TWO OR SO. BUT AT LEAST IT WOULD BE RELEASED PRIOR TO ICANN 52 IS MY GUESS? AND IF I'M CORRECT IN THAT THEN I MIGHT ASK YOU IF I COULD GET JUST, YOU KNOW, TWO OR THREE MINUTES AT THE CCWG PLENARY TO ANNOUNCE TO THE ASSEMBLED GROUP THAT THIS IS OUT FOR PUBLIC COMMENT. I KNOW IT WILL BE ANNOUNCED ON THE LIST BUT WE MIGHT AS WELL TRY AND MENTION THIS AS WIDELY AS WE CAN AND SINCE IRP SORT OF EMANATED FROM THAT GROUP IT WOULD BE NICE TO MENTION IT TO THEM. AM I CORRECT IN THAT ASSUMPTION, IT WILL PROBABLY BE OUT BEFORE ICANN 562.

>> WE'LL DO OUR DARNEST BUT WHEN YOU GET RIGHT UP AGAINST THE MEETING SOMETIMES THINGS TAKE A LITTLE LONGER TO POST. BUT WE WILL BE WORKING ON TRYING TO MAKE SURE THAT WE GET THAT UP AS SOON AS POSSIBLE. IT SHOULD BE POSSIBLE TO GET IT UP BEFORE ICANN 62. (62) AND I'M CERTAIN THE COCHAIRS WOULD BE GLAD TO GIVE YOU A 5 MINUTES ON THE WORK STREAM 2 AGENDA IN THE FACE TO FACE MEETING AT ICANN 62 OR RIGHT THE DAY BEFORE ICANN 62, ACTUALLY. SO YOU CAN CHAT ABOUT THIS.

>> OKAY, GOOD. YEAH I WANT TO DISSEMINATE IT WIDELY. SO THANK YOU. EXCUSE ME. DOES ANYBODY HAVE ANY COMMENT, ANY CONCERN, QUESTION ABOUT THIS? WE'RE GOING TO MOVE FORWARD WITH GETTING THIS ISSUE OUT TO PUBLIC COMMENT. ONE OF THE IMPLICIT ASSUMPTIONS BEHIND THAT IS WE'RE GOING TO BE ABLE TO SORT OF WORKOUT THE DIFFERENCES ON THE REMAINING ISSUES AND I PERSONALLY THINK THAT'S POSSIBLE AND PROBABLE. BUT IF ANYBODY HAS A COMMENT, PLEASE WEIGH IN NOW OR DURING THIS CALL. I DON'T SEE ANY HANDS SO WE CAN PROBABLY MOVE ON TO AGENDA ITEM NUMBER 3. AND I'M JUST TRYING TO GET MY LAPTOP BEAR WITH ME ONE SECOND.

>> DAVID? THIS IS BERNIE.

>> YES, GO AHEAD BERNIE.

>> I BELIEVE FROM LAST WEEK THE GROUP WAS EXPECTING A CONFIRMATION OF THE SECOND READING OF THIS REQUEST TO GO TO PUBLIC COMMENT SO WE CAN BE WELL WITHIN THE RULES. MAYBE YOU CAN JUST ADD IF THERE ARE NO OBJECTIONS.

>> EXACTLY. THANK YOU. THAT'S A GOOD POINT. SO ARE THERE ANY OBJECTIONS TO CONSIDERING THIS DISCUSSION A SECOND READING ON THE ISSUE ON THE PLAN TO SUBMIT TO PUBLIC COMMENT THE TIME FOR FILING RULE DISCUSSION USING THE LANGUAGE THAT YOU'VE SEEN ON THE LIST? DOES ANYBODY HAVE ANY OBJECTION OR ANY CONCERN ABOUT THAT? I DON'T SEE MY HANDS. AND DON'T HEAR ANYTHING. SO I THINK WE CAN CONSIDER THAT DONE. THANK YOU, BERNIE. THE NEXT ISSUE IS ONE SORRY THAT MALCOM IS NOT ON THE CALL BUT IT'S ONE ABOUT TYPES OF HEARING. I WOULD JUST LIKE TO GO THROUGH THIS

BRIEFLY. I'LL DO MY BEST TO GIVE AN OBJECTIVE STATEMENT AS TO WHAT MALCOM WAS SAYING ABOUT THIS BUT I ACTUALLY THINK WE'RE QUITE CLOSE ON THIS SO WE CAN CLOSE THIS DOWN. BUT, THE TWO SORT OF COMPETING DOCUMENTS AND THEY'RE LARGELY IN AGREEMENT, BUT I'LL CALL THEM COMPETING FOR THE PURPOSES OF THIS CALL ARE RULE 5 IN THE UPDATED SUPPLEMENTARY PROCEDURES AND RULE 5 IS WHAT WE AGREED TO AS IT WENT OUT AS PART OF THE SUPPLEMENTARY PROCEDURES THAT WENT OUT FOR PUBLIC COMMENT AND AS I MENTIONED ON THE LIST THIS MORNING I'VE TAKEN A LOOK AT RULE 5 AND HERE'S THE WAY I WOULD SORT OF MENTION THE PRINCIPLES THAT UNDERLIE RULE 5. AND THEY ARE THINGS SUCH THEY ARE THINGS THAT STATE THAT AN IRP SHOULD BE CONDUCTED IN SUCH A WAY THAT IT'S EXPEDITIOUS AND REASONABLY IT WOULD HAVE A REASONABLY LOW COST. IT WOULD ENSURE FUNDAMENTAL FAIRNESS AND ENSURE DUE PROCESS WITH PURPOSES OF THE IRP. THE PANEL WOULD HAVE TO CONSIDER NOTIONS OF ACCESSIBILITY, FAIRNESS AND EFFICIENCY AND THAT EFFICIENCY WOULD BE BOTH AS RESPECT TO TIME AND COST. IN CONDUCTING AN IRP. IRPS WOULD BE CONDUCTED BY ELECTRONICS. PRESUMPTION IF ALL 3 CONDITIONS ARE MET OF THE FOLLOWING 3. IN PERSON HEARING NEEDED FOR FAIR RESOLUTION OF THE CASE, IN EASTERN HEARING NEEDED TO FURTHER THE IRP AND CONSIDERATIONS IN FURTHERANCE OF THESE PURPOSES OUTWEIGH TIME AND COST, FINANCIAL EXPENSE. ANY SUCH IN PERSON HEARING WOULD NOT BE FOR INTRODUCING NEW ARGUMENT OR EVIDENCE THAT COULD BE PRESENTED OTHERWISE. HEARINGS ARE LIMITED TO ARGUMENT ONLY EXCEPT UNLESS A REQUEST FOR WHAT THIS TESTIMONY DEMONSTRATES OF THE 3 CONDITIONS I MENTIONED. MALCOM ON JANUARY 3 PUT OUT HE WAS LARGELY IN AGREEMENT AND I THINK HE SAID THAT ON THE PHONE BUT HE HAD SOME SMALL I SHOULDN'T SAY SMALL. HE HAD SOME DIFFERENCES AND HE PUT OUT A STRAWMAN AND I SORT OF CITED TO IT ON THE LIST A COUPLE TIMES. BUT IN HIS STRAWMAN HE TALKS ABOUT COST MINIMUMMIZATION BUT THAT LOOKS PRETTY MUCH THE SAME AS RULE 5, AT LEAST IN MY READING. I'M PUTTING MY OWN INTERPRETATION ON TOP OF THAT. HE ALSO HIS STRAWMAN EMPHASIZED THE USE OF ELECTRONIC MEANS TO THE GREATEST EXTENT FEASIBLE I THINK WAS THE LANGUAGE HE USED. HE HAS A PRESUMPTION FOR RESOLVING THINGS ON PAPER OR ARGUMENT WITHOUT TESTIMONY. BECAUSE WE DO PROVIDE FOR WITNESS STATEMENTS IN RULE 5 NEAR THE END IT SAYS ALL EVIDENCE INCLUDING WITNESS STATEMENTS MUST BE SUBMITTED IN SO MANY DAYS BEFORE THE HEARING. SO WE OBVIOUSLY ANTICIPATE WRITTEN STATEMENTS. SO MALCOM'S LANGUAGE IS A LITTLE BIT MORE STRINGENT THAN OURS IN THAT RESPECT. WHEN IT GETS TO PROCEEDINGS IN PERSON, MALCOM'S LANGUAGE IN HIS STRAWMAN SAID THAT, YOU KNOW, THE IRP PANEL WOULD HAVE THE POWER TO CONDUCT HEARINGS ON ARGUMENT AND HEARINGS OF WITNESS TESTIMONY IN PERSON. AND HE GAVE 8 CONDITIONS LIMITING IT, PRETTY STRINGENTLY. AND HE SAID THESE HEARINGS COULD BE INCLUDING BY VIDEO CONFERENCE. LATER IN THE DOCUMENT HE SAID THESE HEARINGS SHALL BE CONDUCTED BY VIDEO CONFERENCE. AND THAT POTENTIAL AMBIGUITY WAS RESOLVED LATER WHERE HE SAID ONLY IN EXCEPTIONAL CIRCUMSTANCES MAY THE IRP PANEL ORDER AN IN PERSON HEARING TO BE HELD WITH THE PARTICIPANTS FIRSTALLY TRAVELING TO THE SAME GEOGRAPHIC LOCATION. BEFORE ORDERING THAT KIND OF A HEARING IN MALCOM'S STRAWMAN HE SAID THE PANEL MUST SATISFY PURPOSES OF THE IRP IN A FAIR AND JUST OUTCOME CANNOT BE ACHIEVED WITHOUT THAT ORDER. AND NO AVAILABLE ELECTRONIC MEANS WOULD SUFFICE FOR THIS PURPOSE.

NOW, THE REASON I'M SORT OF SORRY THAT MALCOM IS NOT HERE TO DISCUSS THIS LET ME SEE IF HE'S ARRIVED IS THAT MY ARGUMENT WOULD BE AND I'M SPEAKING AS A PARTICIPANT OBVIOUSLY NOW. MY ARGUMENT WOULD BE THAT I JUST CAN'T ENVISION ANY CIRCUMSTANCES, I CONTINUE TO BELIEVE THAT RULE 5 ADEQUATELY AND FAIRLY COVERS WHAT WE'RE ADDRESSING HERE. AND I RECALL LIZ'S COMMENT LAST WEEK THAT THERE HAVE BEEN HEARINGS WHERE THE HEARING HAS REACHED COST LEVELS OF 1 MILLION AND 2 MILLION. AND SO, THE IDEA OF PHYSICALLY TRAVELING TO THE SAME GEOGRAPHIC LOCATION IS REALLY CAUSING ME PAUSE. MY CONCERN OR MY ARGUMENT AS A PARTICIPANT IS THAT THIS SHOULD BE SOMETHING WHERE WE STATE PRINCIPLES, I THINK RULE 5 DOES THAT AS I SUMMARIZED JUST A MOMENT AGO, WHERE WE GIVE THE PANEL THE ABILITY TO SORT OF FILL IN THE GAPS ON THESE PRINCIPLES, KNOWING WHAT THE PRINCIPLES ARE, INCLUDING COST MINIMIZATION AND I WOULD ARGUE AS A PARTICIPANT WE HAVE TO RECOGNIZE NO ONE IS GOING TO BE SHUT OUT OF A REMEDY. EVERYBODY CAN GO TO COURT IF THEY'VE BEEN TREATED UNFAIRLY. THIS IS ARBITRARY REASONABLY LOW COST, EFFICIENT. SO THAT'S WHERE I STAND. SO I GUESS I'LL HAVE TO COME ON THE LIST AND SORT OF STATE THAT AS A PARTICIPANT. BUT I WOULD WELCOME ANY OTHER VIEWS RIGHT NOW. AND I THANK MALCOM FOR HIS STRAWMAN BY THE WAY. BUT I THINK HIS STRAWMAN IS EXTRAORDINARILY CLOSE TO WHAT WE HAVE ALREADY. AND THAT'S WHY I FEEL SOME CONFIDENCE THAT WE CAN WORK THIS OUT. BUT I CERTAINLY WOULD LIKE TO INVITE COMMENTS OR QUESTIONS OR CONCERNS IF ANYBODY HAS ANY. IF NOT THEN I WILL STATE I GUESS ON LIST WHAT I JUST STATED NOW, MAKING THAT ARGUMENT AND WE'LL SEE WHAT MALCOM'S REPLY IS. BUT I WOULD LIKE TO MOVE THIS ON IF WE CAN AND GET MOVING. ANYBODY I SEE A HAND FROM GREG. GO AHEAD, GREG.

>> THANKS, GREG FOR THE RECORD, THANK YOU DAVID FOR GOING OVERALL THAT. I GUESS AND IT IS UNFORTUNATE THAT MALCOM IS NOT HERE. WHAT I'M TRYING TO UNDERSTAND IS KIND OF ON A MORE CONCEPTUAL LEVEL WHAT MALCOM IS TRYING TO ACCOMPLISH AND WHERE HE DIVERGES FROM WHAT WE HAD BEFORE. BECAUSE ON THE DRAFTING LEVEL IT SEEMS THAT, YOU KNOW, IT'S MADE SOME THINGS MORE COMPLICATED AND LESS LIKELY AND OTHER THINGS MORE SLIGHTLY LIKELY, MAYBE ONE MAJOR DIFFERENCE IS THAT THE PANEL HAS THE POWER RATHER THAN THE PARTICIPANTS TO CALL FOR AN IN PERSON HEARING OR VIDEO HEARING. WHICH I THINK IS WORTH WHILE, YOU KNOW, ALLOWING THE PANEL TO HAVE THAT DISCRETION AS WELL AS THE PARTIES, IF THAT'S WHERE THERE'S A DIFFERENCE. YOU KNOW, ALL THE CONDITIONALITY, YOU KNOW, I FEEL THAT WITHOUT KIND OF A STRONG UNDERSTANDING OF WHY THIS WORKS BETTER THAN RULE 5 OR IS FAIRER OR CONTAINS COSTS BETTER WITHOUT AFFECTING RESULTS, THAT WE'RE KIND OF BETTER OFF WITH RULE 5. BUT, YOU KNOW, IF THERE ARE ANY PARTICULAR TWEAKS THAT COME FROM MALCOM'S STRAWMAN THAT CAN HELP RULE 5 THAT'S A POSSIBILITY IF IT'S NOT A BINARY CHOICE, WHICH IT MIGHT BE. ONE LAST THING, YOU KNOW, SINCE THIS IS IT IS AN ARBITRATION, I THINK WHEN YOU SAY ANYBODY WHO WANTS TO CAN GO SUE, THERE WILL BE A QUESTION WHETHER YOU EXHAUSTED ADMINISTRATIVE REMEDIES. I'M NOT SURE WHETHER THIS WOULD BE A REQUIRED ADMINISTRATIVE REMEDY TO EXHAUST BUT CERTAINLY THE COURT WOULD LOOK AT YOU SIDWAYS IF WE SAID WE DIDN'T DO THE IRP BUT CAME TO SUE BECAUSE WE THOUGHT IT WAS USELESS, TOO EXPENSIVE, WHY NOT GO TO COURT, ET CETERA, ET CETERA. THE IDEA IS TRY TO KEEP THESE THINGS OUT OF COURT. AND I THINK THAT WE MAY HAVE HAD EXPENSIVE

HEARINGS IN THE PAST, THESE ARE COMPLEX MATTERS AND WHETHER WE CAN WITHOUT LOOKING AT THE HEARINGS THAT ARE TAKING PLACE IN THE PAST, CAN'T KNOW FOR SURE HOW VALUABLE OR USEFUL IT WAS AND WHETHER IT WAS JUST A WASTE OF TIME AND MONEY. BUT I'M GOING TO ASSUME UNLESS I KNOW OTHERWISE THERE WERE GOOD REASONS TO HAVE THESE EXPENSIVE HEARINGS AND THAT IT WAS A BETTER WAY TO ACHIEVE WHAT NEEDED TO BE ACHIEVED THEN DOING IT ON THE PAPERS. THANKS.

>> THANK YOU, GREG. I WOULD NOTE THAT UNDER RULE 5 THE IRP PANEL IS SUPPOSED TO USE ELECTRONIC MEANS TO THE EXTENT FEASIBLE BUT THEY CAN ORDER LIVE TELEPHONIC OR VIDEO CONFERENCES WHERE MEASURE AND ALLOW FOR HEARINGS IF THOSE 3 CONDITIONS I MENTIONED ARE OVERCOME. SO RULE 5 GIVES SOME LATITUDE ON HAVING HEARING. WHERE MALCOM'S STRAWMAN DIFFERS THOUGH IS HIS EXPLICITLY ALLOWS AN IN PERSON HEARING TO BE HELD WITH THE PARTICIPANTS FIRSTLY TRAVELING TO THE SAME GEOGRAPHIC LOCATION RATHER THAN BY E MEANS. NOW HE HAS A PREFERENCE FOR ELECTRONIC MEANS RATHER THAN THIS IN THIS HIS STRAWMAN. IF THE TWO CIRCUMSTANCES WERE MEANT, A FAIR AND JUST OUTCOME COULD NOT BE ACHIEVED WITHOUT SUCH A HEARING AND THAT THERE'S NO AVAILABLE ELECTRONIC MEANS. AND WHERE I WOULD COME ON THE LIST AND SORT OF TAKE THAT UP WITH MALCOM IS I CAN'T ENVISION THOSE CONDITIONS EVER BEING MET. IT'S TOO FINE A POINT. WE SHOULD LET THE PANEL HANDLE THIS UNDER SECTION 5. BUT I TAKE YOUR POINT AND I TAKE IT YOU'RE LARGELY IN AGREEMENT THAT RULE 5 IS PROBABLY THE WAY TO GO. I TAKE YOUR POINT ON ADMIN REMEDIES HAVE TO BE EXHAUSTED. I GUESS I WAS THINKING MORE ALONG THE LINES THAT SOMEONE HAS A REMEDY IF THEY'RE EVER TIMED OUT BUT I SHOULDN'T NECESSARILY MAKE THAT POINT IN THIS CASE. DOES ANYBODY ELSE GREG IS THAT A NEW HAND YOU HAVE?

>> FOLLOW UP, DAVE.

>> UNDER RULE 5 IS THERE THE OPTION ULTIMATELY OF AN IN PERSON HEARING? I DON'T HAVE IT IN FRONT OF ME.

>> I HAVE IT HERE AND I DON'T SEE THAT. WHEN YOU SAY IN PERSON I TAKE IT YOU MEAN TRAVELING TO THE SAME GEOGRAPHIC LOCATION?

>> I MEAN FLESH AND BLOOD.

>> IN THE SAME ROOM?

>> YEAH.

>> NO, I DON'T SEE THAT IN RULE 5.

>> I WOULD ADD THAT. I THINK THAT IS AN OPTION THAT SHOULD BE CONSIDERED. AND I THINK THE PROBLEM WITH MALCOM'S STATEMENTS, THEY'RE STATED TOO HIGH. THERE HAS TO BE, YOU KNOW, SOMETHING COULD NOT POSSIBLY IT'S EVEN BEYOND A REASONABLE DOUBT, THE STANDARD IS A STANDARD OF CERTAINTY ABOUT SOMETHING IN THE FUTURE. YOU KNOW, THERE'S NOT EVEN A REASONABLY IN THE FIRST OF THE TWO STANDARDS THAT YOU READ. SO THE WAY THEY'RE DRAFTED THEY BASICALLY YOU WOULD HAVE TO HAVE SOME SITUATION WHERE YOU WOULD HAVE TO POSITIVELY DEMONSTRATE ANYTHING OTHER THAN HEARING WAS IMPOSSIBLE IT GOES TOO FAR. IF WE DIALED IT BACK A BIT AND MADE IT HIGH BAR, BECAUSE IT SHOULD BE A HIGH BAR BUT A BAR THAT HAS SOME REALISTIC POSSIBILITY OF BEING MET UNDER EXCEPTIONAL CIRCUMSTANCES, THEN THAT WOULD MAKE MORE SENSE. THANKS.

>> THANKS GREG. SAMANTHA HAS HER HAND UP. OVER TO YOU SAM.

>> HI, I WAS PRIVY IN THE CHAT AS WELL. MY READING IS AND I THINK SOMEONE CORRECT ME IF I'M WRONG BUT RULE 5 STATES THAT THERE IS THE ABILITY TO REPUT THE PRESUMPTION AGAINST IN PERSON HEARING. EVEN THOUGH THERE'S A PRESUMPTION THERE'S THE ABILITY TO REBUT IT AND MOVE FORWARD WITH AN IN PERSON HEARING WHICH I THINK IS WHAT GREG SAID WAS IMPORTANT TO HAVE SO THERE WOULD BE POTENTIAL TO CALL EVERYONE TO ONE PLACE. DOES THAT GO TO YOUR CONCERN, GREG OR DID YOU HAVE A DIFFERENT CONCERN?

>> GOES TO MY CONCERN, THANKS.

>> OKAY.

>> DAVID SPEAKING AGAIN. I GUESS I READ IT DIFFERENTLY. SAM, YOU'RE CORRECT. LET ME READ THE OPERATIVE LANGUAGE AS I SEE IT FROM RULE 5, THE ONE THAT WE DRAFTED AND WENT OUT TO PUBLIC COMMENT. IT SAYS, THE IRP PANEL SHOULD CONDUCT ITS PROCEEDINGS WITH THE PRESUMPTION THAT IN PERSON HEARING SHALL NOT BE PERMITTED. THE PRESUMPTION AGAINST IN PERSON HEARINGS MAY BE REBUTTED ONLY UNDER EXTRAORDINARY CIRCUMSTANCES WHERE UPON MOTION BY A PARTY, THE IRP PANEL DETERMINES THE PARTY SEEKING AN IN PERSON HEARING DEMONSTRATED ONE AN IN PERSON HEARING IS NECESSARY FOR FAIR RESOLUTION OF A CLAIM, TWO, AN IN PERSON HEARING IS NECESSARY TO FURTHER THE PURPOSES OF THE IRP AND 3, CONSIDERATIONS OF FAIRNESS IN FURTHERANCE OF THE PURPOSES OF THE IRP OUTWEIGH THE TIME AND FINANCIAL EXPENSE OF AN IN PERSON HEARING IN THOSE CIRCUMSTANCES SHALL IN PERSON HEARINGS BE PERMITTED FOR THE PURPOSE OF INTRODUCING MUST ARGUMENTS THAT WERE PREVIOUSLY PRESENTED BUT NOT PREVIOUSLY PRESENTED TO THE PANEL. PARDON ME. SO, THAT'S THE LANGUAGE. I THINK THAT'S ACCEPTABLE TOO. I THINK IT ALLOWS FOR FLEXIBILITY AND WE OUGHT TO GO WITH THAT. BECAUSE MALCOM HAS AN INTEREST IN THAT I THINK I WILL COME OUT TO THE LIST AND SAY MALCOM, AND IT WILL BE TO THE LIST, WE DISCUSSED THIS AND I THINK EVERYBODY IS SATISFIED WITH RULE 5 AND I THINK THAT'S A FAIR STATEMENT, WHEN I SAY EVERYBODY, I MEAN EVERYBODY ON THIS CALL. TO ANSWER AVRI'S QUESTION, ASKED WHAT EXACTLY IS DIFFERENT IN MALCOM'S CHANGE. I LOST IT. MALCOM IS A LITTLE MORE STRINGENT IN ONE RESPECT BUT HE ACTUALLY GETS INTO THE RULE 5 DOES NOT TALK ABOUT PHYSICAL MEETINGS. MALCOM'S RULE DOES. I'M PARAPHRASING HERE, PHYSICAL MEETINGS OR HEARINGS COULD BE HELD ONLY IN EXCEPTIONAL CIRCUMSTANCES WHERE THE IRP PANEL HAS DETERMINED PURPOSES OF THE IRP AND A FAIR AND JUST OUTCOME IS IMPOSSIBLE WITHOUT SUCH AN IN PERSON PHYSICAL HEARING AND THAT THERE'S NO ELECTRONIC MEANS THAT COULD SATISFY HAVING A FAIR HEARING. SO, I THINK THAT'S I THINK THAT'S WHERE WE ARE. I NEED TO COME TO THE LIST BUT I THINK WE CAN PRESS ON WITH THE ASSUMPTION THIS IS NOT SOMETHING WE'RE GOING TO NEED PUBLIC COMMENT ON. AVRI YOUR HAND IS UP. PLEASE TAKE THE FLOOR.

>> THANKS FOR REEXPLAINING IT TO ME. SO REALLY HE'S NOT ASKING FOR ANYTHING DIFFERENT, JUST FAR MORE STRINGENT CONDITIONING? AND BECAUSE THE OTHER WAS KIND OF IMPLICIT ALREADY IN 5 AS IT EXISTS, IF IT'S A PRESUMPTION THAT IT'S NOT ACCEPTING EXCEPTIONS THEN TO SAY IT ISN'T ACCEPTING EXCEPTIONS ARE FAIRLY SIMILAR. SO, OKAY. NOT QUITE SURE I UNDERSTAND WHY HE WANTS IT THAT MUCH MORE STRINGENT BUT I UNDERSTAND THE FAVOR ABILITY TO 5. THANKS.

>> THANK YOU AVRI. ME AGAIN STRESS I'M TRYING TO READ THE STRAWMAN OBJECTIVELY. IT'S NOT SOMETHING I DRAFTED SO I HOPE I'M BEING FAIR TO MALCOM. BUT MALCOM ALSO WENT INTO MUCH MORE DETAIL ON WHEN AN IRP PANEL WOULD HAVE THE POWER TO CONDUCT HEARINGS. AND HE HAD HE LISTED 8 CONDITIONS AND A NUMBER OF THEM HAVE SUBPOINTS. SO HE'S MUCH MORE DETAILED, HIS STRAWMAN WAS MUCH MORE DETAILED. I BELIEVE IT LARGELY AGREES WITH SECTION 5 OR RULE 5. AND I BELIEVE MALCOM HAS EVEN SAID AS MUCH. BUT THIS WAS IMPORTANT TO HIM. IT DID ADDRESS SOME DIFFERENCE ITSELF HE THOUGHT WERE IMPORTANT. AND SO FOR ME TO COME OUT IN THE LIST IT'S GOING TO TAKE ME A DAY OR PROBABLY NOT UNTIL MONDAY. SO IN THE MEANTIME I WOULD ENCOURAGE THOSE ON THE CALL TO READ HIS STRAWMAN. MAYBE YOU WILL PICK SOMETHING UP IN IT THAT I HAVEN'T BUT I BELIEVE WE'RE BOTH VERY CLOSE. MY POSITION IS I'M STATING IT AS A PARTICIPANT WHICH IS REALLY RULE 5 IS SUFFICIENT. AND MALCOM'S POSITION STATED IN THE STRAWMAN. I ENCOURAGE PEOPLE TO LOOK AT IT. I'M TRYING TO DESCRIBE IT BUT IT'S NOT THE SAME AS READING IT. THANKS AVRI. SO WE'LL PROCEED FORWARD ON THE ASSUMPTION THAT THIS IT GOING TO BE WORKED OUT. I BELIEVE IT WILL BE. AND WE CAN MOVE ON TO THE NEXT TO NEXT AGENDA ITEM AND THAT IS TO REVIEW THE INTERIM RULES. I'VE ASKED SAM OR LIZ IF THEY COULD SORT OF LEAD THIS PART OF THE DISCUSSION AND STEP US THROUGH THE INTERIM RULES. AND SO I HAVE SOME COMMENTS ALONG THE WAY BUT I SHOULD PROBABLY GIVE UP THE FLOOR AND NOT NECESSARILY TRY TO TEE THIS UP. AND ASK SAM OR LIZ IF YOU WOULD KINDLY TAKE US THROUGH THE INTERIM RULES.

>> SURE, DAVID. BERNIE, CAN YOU FLASH UP THE DOCUMENT THAT WE SENT IN MAY? AND I DON'T RECALL BUT I DON'T THINK I HAVE SEEN RESPONSES BACK OR AREAS YOU WOULD LIKE ME TO FOCUS ON. SO I'LL FIRST THROW OUT THE QUESTION TO THOSE ON THE CALL TODAY, IS THERE ANYTHING FROM WHAT YOU REVIEWED IN THE DOCUMENT, IF YOU HAVE REVIEWED THE DOCUMENT THAT YOU WOULD LIKE ME TO FOCUS ON FIRST?

>> SAM, YES, I PUT IT UP BECAUSE I WILL DO THIS AS A PARTICIPANT. AND I APOLOGIZE FOR NOT BEING MORE SPECIFIC. THE THINGS I WOULD MOST BE INTERESTED IN YOU TALKING ABOUT ARE JOINDER, TRANSLATIONS AND I'VE SEEN THE TRAFFIC ON THE LIST. ON THE INTERIM AND ON THE INTERIM RULE FOR TIME FOR FILING I'VE SEEN SOME MAIL BACK AND FORTH BETWEEN YOU ANIMAL COME AND I THINK YOU ANSWERED THE QUESTIONS AND IT'S IN GOOD SHAPE BUT DEAL WITH THOSE FIRST. THE TIME FOR FILING IN LIGHT OF YOUR EMAILS WITH MALCOM THEN JOINDER THEN TRANSLATION. THANK YOU.

>> SURE. SO, ON TIME FOR FILING, FOR THOSE OF YOU WHO WERE ON LAST WEEK'S CALL YOU MIGHT REMEMBER DAVID POSED A QUESTION ABOUT THERE'S A CONCERN ABOUT SOME FAIRNESS TO THOSE WHO MIGHT BE CROSSING DEADLINE IF WE HAD A REPOSE PERIOD PROPOSED WITHIN THE INTERIM RULES WHILE WE AWAIT THE OUTCOMES OF THE PUBLIC COMMENT FOR DETERMINING WHAT WILL ACTUALLY BE PUT INTO THE FINAL RULES. AND SO, I IDENTIFIED LAST WEEK THAT I THOUGHT THAT ICANN CAN BE IN A POSITION TO AGREE THAT WE COULD HAVE SOME TRANSITIONARY CLAUSES IN THE FINAL SET OF RULES THAT WOULD GIVE SOME TIME FOR THOSE WHO HAD 120 DAY PERIOD RUN DURING THE TIME THAT THE INTERIM RULES WERE IN PLACE B WERE ACTUALLY TIME BARRED BECAUSE THE ACTION HAPPENED MORE THAN A YEAR BEFORE. UNDER THE INTERIM RULES. AND SO I CONFIRMED THAT INTERNALLY AND SO I SENT A NOTE OUT TO THE IOT LAST NIGHT, LA TIME, TO IDENTIFY

THAT WE AGREE THAT WE CAN DO SOMETHING LIKE THAT, SO WE'RE NOT ACTUALLY PREJUDICING ANYONE IN THE EVENT WE WIND UP WITH A LONGER PERIOD THEN 1 YEAR FOR AN OUTSIDE REPOSE AND N THE FINAL SET OF RULES. MALCOM BACK BACK WITH A QUESTION ABOUT WHAT DOES THAT MEAN, HOW LONG WOULD THEY HAVE TO FILE? I THINK THAT THAT'S ONE OF THOSE TIME PERIODS WHERE MAYBE THE IOT WOULD WANT TO THINK ABOUT IT. I THINK IN MY RESPONSE TO HIM I SAID I DON'T THINK IT WOULD MAKE SENSE TO BE ANY LONGER THAN 120 DAYS AFTER THE NEW RULES OR THE NEW SUPPLEMENTARY PROCEDURES ARE IN PLACE BUT WE CAN IDENTIFY WITHIN THE IOT WHAT BEING WE CONSIDER TO BE THAT REASONABLE TIME FRAME AFTER THE NEW RULES ARE IN PLACE FOR THAT "OLD CLAIM" TO BE BROUGHT. SO I THINK THAT'S A DETAIL THAT WE CAN TALK ABOUT FURTHER. BUT WE WERE TRYING TO ADDRESS THAT CONCERN AND ALSO TO DEMONSTRATE OUR COMMITMENT THAT WE'RE REALLY NOT TRYING TO USE THE INTERIM RULE PROCESS AS A WAY TO PREJUDICE ANYONE IN HOW THEY WOULD PARTICIPATE IN THE IRP LATER. SO I DON'T KNOW IF THERE ARE ANY OTHER QUESTIONS ON THIS LIST ABOUT IT OR THE EMAIL TRAFFIC ON THAT HAS ANSWERED YOUR QUESTIONS.

>> THANKS, SAM. DAVID SPEAKING AS A PARTICIPANT. I THINK IT DID ANSWER THE QUESTION. I DO THINK THAT YOU BRING UP A GOOD QUESTION. WE HAVE TO COME UP WITH A TIME LIMIT THAT SOMEONE WOULD HAVE TO FILE TO MEET 120 DAYS PROBABLY SOUNDS LIKE A NATURAL BUT PROBABLY NOT MORE THAN THAT BUT THAT'S SOMETHING WE CAN DISCUSS. I DON'T THINK IT NEEDS TO HOLD US UP RIGHT NOW. WELL I SHOULDN'T SAY THAT. I SHOULD SAY THAT'S MY FEELING ON IT. IF ANYBODY ELSE WOULD LIKE TO STATE A SUGGESTION IN THAT RESPECT, PLEASE DO. BUT I BELIEVE WHAT YOU'VE DONE AND WHAT YOU'VE SAID, SAM, IS THAT NO ONE WOULD BE PREJUDICED BY US GOING OUT TO PUBLIC COMMENT. I TEND TO DISAGREE WITH MALCOM IN HIS RESPONSE TO LIZ WHERE HE SAID WE'VE NEVER AGREED TO THE 12 MONTH. ACTUALLY THAT'S THE RULE WE SENT OUT. WE DID AGREE IN OUR FIRST ITERATION. I DON'T HAVE A PROBLEM WITH 120 ON ONE HAND AND ONE YEAR ON THE WE ARE WITH A CARVE OUT YOU DESCRIBE NOBODY IS GOING TO BE PREJUDICE WHILE WE'RE SEEKING PUBLIC COMMENT. SO I'M HAPPY WITH THAT. THAT'S MY FEELING ON IT. THANK YOU.

>> ALL RIGHT.

>> LET ME ASK IF ANYBODY ELSE HAS A COMMENT. IF NOT, SAM WE CAN MOVE TO JOINDER AND TRANSLATION, UNLESS YOU HAVE SOMETHING ELSE YOU WANT TO SAY ABOUT THAT.

>> I THINK THAT THAT'S ALL I HAVE ON THAT ONE. I WILL SCROLL DOWN TO FIND TRANSLATION. SO LET ME DEAL WITH TRANSLATION FIRST. IF ANYONE THAT IS OFF THE TOP OF THEIR HEAD, THE PAGE NUMBER, LET ME KNOW BECAUSE WE WILL HAVE TO HAVE EVERYONE SCROLL THROUGH THAT. I THINK WE'RE ON PAGE 6.

>> OKAY, AND ALSO LET ME JUST MENTION TO FOLKS THIS WAS IN YOUR EMAIL OF THURSDAY MAY 31ST.

>> YES, THANK YOU. SO, UNDER RULE 5 WE'VE PREVIOUSLY AGREED AMONG THE IOT THAT WE NEEDED TO MAKE SURE THERE WAS SOME REFERENCE TO TRANSLATION OF PROCEEDINGS. THERE IS ACTUALLY A REFERENCE TO TRANSLATION IN THE ICANN BYLAWS. AND SO, WE KNOW THAT THIS HAS TO BE WE THINK IT MAKES SENSE TO HAVE IT INCLUDED IN THE PROCEDURES AS WELL. SO, AS WE WERE LOOKING OVER THE CONVERSATION FROM WITHIN THE IOT TO CONSIDER IF THERE WAS TEXT READY ENOUGH TO GO INTO AN INTERIM SET OF RULES, WE IDENTIFIED AND YOU CAN SEE ON THE FOOTNOTE THAT WE INCLUDE IN HERE, FOOTNOTE 20

THAT WE HAVE WE INITIALLY SAID IT NEEDED TO BE IN PUBLIC COMMENT BUT THERE WAS A QUESTION OF WHAT TRANSLATION SERVICES MEAN. I WOULD LIKE TO POINT THE IOT MEMBERS TO THAT MAY 31ST EMAIL BECAUSE IN THERE WE IDENTIFIED SOME MORE SPECIFICS ABOUT WHY WE THOUGHT THIS RULE WAS NOT READY TO GO INTO THE INTERIM PROCEDURES AND WHERE WE THOUGHT WE MIGHT NEED TO FOCUS SOME EFFORT ON DRAFTING AND SOME DECISION MAKING AMONG THE IOT IN ORDER TO GET TO THE FINAL RULES. AND SO I RAISED SOME OF THE CONCERNS SUCH AS TRANSLATION OF PLEADINGS OR PEOPLE'S BRIEFINGS ACTUALLY CAN BE CONSIDERED PART OF A LEGAL STRATEGY. IT'S REALLY IMPORTANT FOR PEOPLE TO BELIEVE THAT THE TRANSLATION IS AN ADEQUATE REPRESENTATION OF WHAT THEY'VE PUT FORWARD. SO I THINK WE NEED TO CONSIDER IF WE THINK THAT ALL TRANSLATIONS ARE PART OF ADMINISTRATIVE OR IF THERE ARE CERTAIN PARTS OF TRANSLATION THAT IS ARE CONSIDERED LEGAL COSTS, WOULD WE THINK THAT TRANSLATION IS ALWAYS ICANN'S RESPONSIBILITY TO OBTAIN OR IF IT'S A LEGAL PLEAING WOULD THAT BE THE RESPONSIBILITY OF THE SUBMITTING PARTY AND PART OF THEIR LEGAL COSTS? IF YOU RECALL WITHIN THE COST STRUCTURE OF THE IRP, ICANN IS RESPONSIBLE FOR ALL ADMINISTRATIVE COSTS AND FOR THE EXCEPTION OF THE COMMUNITY IRPS, EACH PARTY IS RESPONSIBLE FOR THEIR LEGAL COSTS. AND SO THIS DOES HAVE SOME ACTUAL IMPACT IN TERMS OF THE COST OF THE PROCEEDINGS TO BOTH ICANN AND THE CLAIMANT, DEPENDING ON WHERE THAT IS CUT. SO WE LAID OUT SOME ITEMS IN THERE, IN THAT ELM MAIL TO THINK ABOUT. THE PROPOSAL I MADE WITHIN THAT E MAIL WAS THAT I THINK WE CAN GO ONE OF TWO WAYS. WE CAN EITHER GET SOME OF THESE THOUGHTS OVER TO EXTERNAL COUNSEL NOW TO START A DRAFTING EXERCISE TO SEE IF THEY HAVE PROPOSALS OF HOW THESE ITEMS CAN BE WORKED INTO A FINAL SET OF RULES OR ON THE IOT WE COULD CARVE OUT SOME TIME IN ONE OF OUR MEETINGS THAT WILL HAPPEN SOON TO SEE IF WE HAD A SENSE OF WHERE THE IOT WANTED TO GO ON THIS. I THINK WE COULD GO EITHER WAY. FOR THE TIMING CONCERN, BECAUSE WE DO HAVE SOME BUDGETARY CONCERNS AROUND EXTERNAL COUNSEL AND WHEN WE CAN ACCESS THEM. I THINK I LEAN MORE TOWARD GETTING THIS ISSUE TO EXTERNAL COUNSEL TO HAVE THEM WEIGH IN ON THE TEXT AND POSE QUESTIONS BACK TO THE IOT IF WE'RE NOT ABLE TO GET THIS ISSUE TEED UP FOR CONVERSATION WITHIN THE IOT SOONER. BUT I THINK THAT ALSO WEIGHS TOWARDS IF WE'RE LOOKING AT GETTING OUT A SET OF INTERIM RULES THAT I ALSO ASK FOR THE IOT'S CONFIRMATION THAT THIS ISN'T YET AN ISSUE THAT'S READY FOR INCLUSION IN THE INTERIM RULES, BUT WE WILL HAVE IT READY LIKELY WITHOUT NEED FOR PUBLIC COMMENT, I REALLY DON'T THINK WE NEED IT, IN ORDER TO GET INTO THE FINAL SET OF PROCEDURES. DAVID.

>> THANKS, SAM. DAVE MCAULEY SPEAKING AS A PARTICIPANT. THANK YOU FOR THE COMMENTS IN THE EMAIL YOU SENT MAY 31ST. IN MY OPINION I THINK YOU RAISE A GOOD POINT ABOUT COSTS, ABOUT LEGAL STRATEGY AND WHETHER PART OF THIS MAY BE IN COSTS. LET ME JUST BEFORE I GO ON TO MY CONCLUSION ON THAT JUST ADDRESS ONE OR TWO OTHER THINGS IN YOUR MAIL. WITH RESPECT TO THE APPENDICES, TRANSLATION OF APPENDICES WE DON'T HAVE PAGE LIMITS. THE ONE THING THAT WE DID SAY IS IN WHAT WE WERE GOING TO SEND WE SAID WHEN CONSIDERING THE TRANSLATION OF DOCUMENTS THE PANEL OR EMERGENCY PANELISTS SHOULD ENDEAVOR TO STRIKE A FAIR BALANCE BETWEEN THE MATERIALALITY OF THE DOCUMENT AND THE COST TO TRANSLATE. IT SEEMS MATERIALALITY MAY BE LESSER THEN THE AN PEPPED CEASE. IT MAY BE COVERED AND WE

MIGHT WANT TO SEE WHAT IS SENT BACK IN RESPONSE TO THAT REQUEST. AND THE OTHER THING YOU MENTIONED IN YOUR MAIL WAS MENTION SHOULD BE MADE OF THE PROFICIENCY OF THE CLAIMANT'S REPRESENTATIVE IN ENGLISH. AND I THINK WHAT WE SAID, WE SAID IN OUR SUGGESTION IN ADDITION IF THE CLAIMANT INCLUDES MORE THAN ONE PERSON, FOR INSTANCE CLAIMANT IS A CORPORATION THEN IF A RESPONSIBLE MEMBER OF SUCH PERSONS. I TAKE OPTION 1, WE SHOULD POSE THESE AS QUESTION AND DO WHATEVER WE CAN TO GET THEM TO THEM. WE ARE ELEMENT OUT OF TIME FROM GETTING ANYTHING FROM SIDLY. I DON'T THINK WE CAN TEE IT UP ANY FURTHER. WHAT I WOULD SUGGEST IS WE I CAN'T READ FOOTNOTE 20 RIGHT NOW BUT BASICALLY WE SEND WHAT WE HAD IN OUR SUGGESTED INSTRUCTION TO SIDLY ASKING FOR ALTERNATIVES FOR US. DOES ANYBODY ELSE HAVE ANY COMMENTS ALONG THE LINES OR SAM DO YOU HAVE ANYTHING YOU WANT TO SAY IN RESPONSE?

>> THANKS DAVID. I AGREE WITH YOUR SUGGESTION. THE INFORMATION AND COST COULD GO TO THE APPENDICES, I THINK WE MIGHT WANT TO BE A LITTLE CLEARER ABOUT THAT BUT I THINK IT'S STILL I HAVE THE SAME SENTIMENT BUT I THOUGHT IT STILL LACKED A LITTLE BIT THERE MIGHT BE MORE THAT WE CAN DO ON THAT. BUT, I THINK THAT YOU AND I SOUNDS LIKE WE'RE ON THE SAME PAGE.

>> THANKS, I THINK WE'RE ON THE SAME PAGE BUT SAM I NEED TO ASK YOU AND LIZ FOR SOME HELP HERE AND WHAT I'M SPEAKING ABOUT IS IN GETTING SOMETHING TO SIDLY, I WOULD SORT OF ASK I THINK WE'RE GOING DOWN THE ROAD OF USING YOUR RED LINE DOCUMENT. AND SO WE HAD TWO CHOICES. WE COULD HAVE GIVEN THE INSTRUCTIONS THE WAY WE WERE GOING, BUT THAT DID LEAVE A LOT OF UNCERTAINTY. AND AS AN ALTERNATIVE YOU PROPOSED A RED LINE VERSION. SO I WILL NEED YOU TO MAKE SURE YOU HAVE THE RED LINE VERSION IN SUCH FASHION THAT WE CAN SEND IT TO SIDLY. MAYBE THE CLEAN COPY. WHAT YOU SHOULD SEND TO THE LIST IS THE FINAL RED LINE VERSION AND CLEAN COPY SHOWING WHAT WE'VE DISCUSSED. AND I THINK MALCOM WOULD PROBABLY AGREE WITH WHAT YOU SAID ON TIME FOR FILING. I THINK YOU PROBABLY ANSWERED HIS QUESTION SATISFILY. AND SHOWING THE JOINDER WITH SOME TRANSLATION QUESTIONS, YOU KNOW, BOIL YOUR EMAIL OF MAY 31ST QUESTIONS TO SIDLY THAT WE CAN SAY YES THIS IS WHAT WE NEED TO SEND OR NO IT'S NOT, LET'S TWEAK HERE SO WE CAN GET IT DONE. WE HAVE TO GET IT OUT. TODAY IS JUNE 7. IF WE FINALIZE THAT NEXT WEEK, JUNE 14TH WE WOULD GIVE SIDLY HALF A MONTH. LET ME STATE PARENTHETICALLY BERNIE, COULD I ASK YOU TO MAKE AN ACTION ITEM THAT YOU AND I SHOULD GET READY TO CALL HOLLY AND TELL HER UNFORTUNATELY IT'S COMING LATE BUT IT WILL BE COMING? AND WE NEED TO FIGURE OUT A WAY TO MAKE IT HAPPEN IN THIS FISCAL YEAR. I THINK SAM YOU SAID WE HAVE TO MAKE SURE WE GET A BILL IN THIS FISCAL YEAR. I DON'T KNOW HOW IT WORKS.

>> WE DON'T NEED A BILL IN THIS FISCAL YEAR. WE NEED TO HAVE THEM WE NEED TO ACTUALLY HAVE THEM DO THEIR WORK WITHIN THIS MONTH. WE GET THE BILL A LITTLE BIT AFTER THE END OF THE FISCAL YEAR BUT THEY NEED TO DO THE WORK WITHIN THE FISCAL YEAR. AND ALSO DAVID I KNOW YOU AND I HAD AN EARLIER EXCHANGE WITH HOLLY WHEN WE GAVE HER A HEADS UP SO WE CAN ALSO JUST WRITE ON TO THAT CHAIN AND SAY, HEY, THIS IS GOING TO START TO COME.

>> OKAY.

>> SO WHAT I TAKE FROM YOUR POINT, DAVID IS AN ACTION ITEM OF SO WE WOULD SEND THEM THE INTERIM RULES, NOT REALLY AS A DIRECTION OF WHAT THEY'RE DOING BUT TO SHOW THEM WHAT WE'RE THINKING ON THE INTERIM RULES AND DOCUMENTS THEY CAN WORK FROM AND IT SHOWS SOME OF THE PLACES WE'VE PROGRESSED. AND THEN THEY MIGHT HAVE SOME IDEAS ON SOME OF THE LANGUAGE THAT MAYBE WE'VE INSERTED IN THERE AND HOW WE CAN BETTER IT FOR A FINAL SET OF RULES. AND THEN WE ALSO HAVE AT LEAST THIS TRANSLATION ISSUE AND I THINK THE JOINDER ISSUE AS WELL WHICH LIZ WILL TALK TO IN A MINUTE, WHICH ARE PLACES WHERE WE'VE IDENTIFIED SOME CONCRETE QUESTIONS THAT WE THINK WOULD HELP GUIDE THE FINAL DRAFTING OF IT, WHICH ALSO SUPPORTS WHY WE'RE NOT READY FOR IT TO BE IN THIS INTERIM SET. ON THE TIME FOR FILING, I THINK WE NEED TO AWAIT THE OUTCOMES OF THE PUBLIC COMMENT BEFORE WE GET TOO MUCH OTHER LANGUAGE OR USE THEIR TIME TOO MUCH ON IT, BECAUSE WE DON'T WANT TO JUST BECAUSE THERE'S MONEY AVAILABLE DOESN'T MEAN WE SHOULD HAVE THEM BILLED UNDER COMMUNITY CONVERSATION.

>> I THINK THE LANGUAGE WE HAVE IS GOOD. I DON'T THINK WE NEED SIDLY'S HELP ON THAT ONE. LET ME SAY YES AND WE'LL GET TO LIZ IN JUST A MINUTE BECAUSE WE HAVE 15 MINUTES LEFT. BUT DOES ANYBODY IN THE GROUP HAVE A COMMENT, QUESTION, CONCERN WITH WHAT THE DISCUSSION HAS BEEN OVER THE LAST SEVERAL MINUTES? IF NOT, LET'S PRESS ON THEN, LIZ, IF YOU'RE DONE WITH THIS SAM, I'M SORRY. IF WE'RE DONE WITH THIS WE CAN MOVE TO LIZ, THEN WE OUGHT TO DO IT.

>> WORKS FOR ME.

>> OKAY, LIZ YOU HAVE THE FLOOR THEN.

>> OKAY. THANK YOU DAVID. THIS IS LIZ FROM ICANN ORG FOR THE RECORD. WITH RESPECT TO JOINDER AS SAM INDICATED, WE THINK THAT THERE'S STILL SOME WORK THAT NEEDS DEVELOPMENT. SO IT'S NOT YET READY TO BE INCLUDED AS PART OF THE SET OF THE INTERIM RULES THAT GOES TO SIDLY. BUT, YOU KNOW, LET ME GO OVER IT. I THINK THE LANGUAGE THAT WE HAVE IN THE DRAFT INTERIM RULES THAT SAM CIRCULATED IS PRETTY MUCH THE LANGUAGE THAT BASED UPON OUR VARIOUS DISCUSSIONS, SEEM TO HAVE AGREED UPON. I DON'T RECALL THERE BEING ANY OPPOSITIONS OR DISCUSSIONS TO THE CONTRARY ON THE CURRENT LANGUAGE. I THINK WHERE IT SEEMS THAT ADDITIONAL WORK IS NEEDED FROM THE GROUP BUT NOT THE KIND OF MATERIAL CHANGE THAT WOULD REQUIRE US GOING OUT FOR PUBLIC COMMENT, BUT THERE ARE CERTAIN CONCERNS THAT I THINK HAVE BEEN RAISED BY ICANN AND OTHERS IN THE GROUP, SUCH AS IF YOU HAD SOMEBODY WHO IS JOINING AS A PARTY, HOW IS THE PARTY HOW IS PARTY DEFINED IN THAT INSTANCE? MEANING IS THAT INTERVENER THEN DEFINED IN THE SAME WAY AS THE CLAIMANT. AND THEY HAVE THE SAME STATUS AS A CLAIMANT IN THE IRP. I THINK WE'VE ALSO RAISED CERTAIN QUESTIONS ABOUT NEEDING TO WORKOUT THE PROCEDURES RELATED TO BRIEFINGS AND SCHEDULINGS AND FILING FEES AND ANY ISSUES THAT MAY AFFECT THE EFFICIENCY AND PROGRESS OF THE IRP. FOR EXAMPLE, IN INSTANCES WHERE THE INTERVENER JOINS AT A STAGE WHEN THE IRP HAS SIGNIFICANTLY PROGRESSED ALONG, AND SHOULD THERE BE SOME KIND OF LIMITATION ON THE RIGHT OF A PARTY TO INTERVENE? I THINK OTHER THINGS WE'VE RAISED AND DISCUSSED AS A GROUP THAT WE STILL NEED TO WORKOUT IS FOR INTERVENTION AS A RIGHT. AND IS THERE SOME TETHERING WE NEED TO DEVELOP TO THE DISPUTE SO THAT NOT EVERYONE AND EVERYONE CAN JOIN AND INTERVENE AS A RIGHT, BUT THERE SHOULD BE SOME KIND OF NEXTS

REQUIREMENT. SO THESE NEED TO BE VETTED BY THE GROUP BEFORE INCLUSION INTO THE FINAL SET OF RULES.

>> THANKS, LIZ. LET ME ASK YOU THIS. THE THINGS YOU WERE JUST MENTIONING, SOUND REASONABLE TO ME. YOU KNOW, TIMING, ET CETERA. I'M TRYING LIKE IN THE RED LINE THAT SAM SENT AROUND, ARE THOSE ADDRESSED IN THE RED LINE? I'M JUST MAYBE I MISSED IT. I DON'T KNOW.

>> THEY'RE ADDRESSED DAVID IN THE NOTE. SHE'S ANNOTATED IT IN THE NOTE THAT THERE ARE CERTAIN ISSUES THAT WE NEED TO FLUSH OUT STILL.

>> UH HUH.

>> IF YOU GO TO PAGE 8

>> NO I SEE IT NOW. YEAH. SO THERE'S A FEW ISSUES WE DO NOT HAVE A DEFINITION OF PARTY HERE, SO WE NEED... OKAY. HOW DO YOU PROPOSE WE PROCEED ON THIS?

>> I THINK THIS IS SOMETHING, A CONVERSATION THAT WE EITHER WE CAN SEEK COMMENTS FROM THE GROUP ON LIST OR IF WE CAN DISCUSS IT IN THE NEXT COUPLE MEETINGS. BUT, I THINK IT'S SOMETHING WHERE YOU WOULD LIKE US TO PROPOSE SOMETHING THAT CAN BE A STARTING POINT FOR DISCUSSION?

>> WELL, THANK YOU. I'LL TELL YOU WHERE I'M COMING FROM WHEN I ASK SUCH A QUESTION AND THAT IS WE HAVE TO GET SOMETHING TO SIDLY NOW. SO MY SENSE OF THIS IS ON QUESTIONS LIKE YOU POSED, FOR INSTANCE WE DON'T HAVE A DEFINITION OF PARTY HERE. SO WE WOULD HAVE TO DECIDE WHAT DO WE MEAN BY A PARTY, THAT SOMEONE COMES INTO THIS, THEY'VE JOINED HAVING THE QUALITY OF A PARTY. WHAT DO WE MEAN BY THAT? ARE THEY A CLAIM CEMENT IF THEY ARE ARE THEY MAKING A REQUEST FOR A JUDGMENT THAT SOMETHING DID OR DID NOT VIOLATE THE BYLAWS OR DO THEY HAVE OTHER STANDING? THOSE THINGS I IMAGINE WE'LL AGREE ON. WHAT I WOULD LIKE TO KNOW BEFORE NEXT WEEK IS WHAT IMPACT DOES THIS HAVE ON US GETTING SOMETHING OUT TO SIDLY. AND THE REASON I ASK IS WE DON'T REALLY HAVE A COUPLE OF WEEKS TO SORT THROUGH THE NUANCES OF THIS AND GET SOMETHING TO SIDLY. I TAKE IT WE WILL HAVE TO WORK ON THIS IN THE BACKGROUND SEPARATELY. AND SO, ARE YOU PROPOSING THAT WE SEND THE LANGUAGE THAT YOU DO HAVE IN SECTION 7, TO SIDLY RIGHT NOW WITH THE UNDERSTANDING THAT WE WILL THEN BE WORKING ON THE QUESTIONS POSED IN THE NOTE? IS THAT WHAT THE REQUEST IS?

>> YES.

>> DOES ANYBODY

>> I THINK THAT'S A FAIR APPROACH TO GO FORWARD.

>> OKAY. SO THEN I'M GOING TO ASK IN A MINUTE IF ANYBODY HAS ANY COMMENTS, CONCERNS OR QUESTIONS. I SEE SAM'S HAND IS UP. I WILL COME TO YOU IN JUST A SECOND, SAM. BUT IN ANYONE ELSE HAS SOMETHING TO SAY ABOUT THIS, PLEASE DO. I WILL BE LOOKING LIZ TO YOU AND SAM TO SORT OF TEE THIS UP THEN. BUT GO AHEAD, SAM. YOU HAVE THE FLOOR.

>> THANKS, DAVID. I THINK WHEN WE SEND THEM THIS INFORMATION WE SHOULD ALSO ACCOMPANY IT WITH A NOTE OF THESE ARE THE OTHER THINGS THAT THE IOT IS STILL LOOKING AT OR THE THINGS WE'RE DISCUSSING. SO THAT WAY WE CAN KIND OF FLAG FOR THEM WHAT THE OTHER WORK IS, THEY CAN PROVIDE SOME INPUTS IF THEY HAVE ADDITIONAL THOUGHTS

ON THOSE OR SOME GUIDANCE. AND SO, I THINK WE CAN WE SHOULD READ THEM IN ON WHAT THE OTHER THINGS WE'RE STILL CONSIDERING ARE WHEN IT'S SENT OVER.

>> THANKS, SAM. AND CAN I LOOK TO YOU AND LIZ TO SORT OF TEE THIS UP? TO TEE UP THIS WHOLE DOCUMENT, WITH THE IDEA OF SOME QUESTIONS ON TRANSLATIONS AND ON JOINDER?

>> YEP. AND WE'LL LOOK THROUGH AND SEE IF THERE ARE ANY OTHER THINGS WE HIGHLIGHTED AS NECESSARY FOR SOME FURTHER CONVERSATION.

>> OKAY. THANKS. I THINK IT WOULD BE A GOOD IDEA IF WE CAN, BERNIE I MIGHT ASK YOU TO HELP IN THIS RESPECT, IF WE COULD FIND A 15 MINUTE SLOT WHERE MAYBE BERNIE AND SAM AND I COULD TALK TO HOLLY, NOT ABOUT THE SUBSTANTIVE WORK WE'RE DOING, BUT JUST ON WITH RESPECT TO HEADS UP, WE'RE GOING TO BE ASKING QUESTIONS WE NEED TO GET DONE BY THE END OF JUNE, THAT KIND OF DISCUSSION. SAM, DO YOU THINK WE CAN HANDLE IT IN EMAIL? THAT'S FINE. BUT I JUST WANT TO I GUESS WE HAVE TO GET THAT PART OF IT MOVING. SO, AGAIN I'LL INVITE OTHERS ON THE CALL TO COMMENT OR STATE ANY QUESTION THEY MIGHT HAVE. IF THERE ARE NONE I THOUGHT I SAW A HAND. IF THERE ARE NONE I'LL ASK LIZ, ARE YOU DONE WITH WHAT YOU WANTED TO SAY ON JOINDER?

>> YES, DAVID, I AM.

>> I THINK WE CAN MOVE TO SECTION 5 AGENDA ITEM 5. FURTHER THOUGHTS ON OUR WORK AFTER THE RULES, UNLESS SOMEBODY HAS SOMETHING ELSE THEY WOULD LIKE TO COMMENT ON, ON THE DISCUSSION SO FAR. I DON'T SEE ANY HANDS. SO YOU'LL NOTE THAT I SENT AN EMAIL TO THE LIST ABOUT WORK THAT WE HAVE ONCE WE GET THE RULES SORT OF TENDED TO. AND WHAT I MEAN BY TENDED TO IS SOMETIME SOON WE'RE GOING TO HAVE ONE RULE OUT FOR PUBLIC COMMENT. TIME FOR FILING AND WE WILL HAVE A DOCUMENT FROM FRONT OF SIDLY FOR FEEDBACK ON THE INTERIM RULES AND QUESTIONS IN THE BACKGROUND. WE'LL HAVE THOSE 3 GOING BUT IT'S QUITE POSSIBLE THOSE 3 WILL BE WRAPPED UP BY MID JULY. WHEN I SAY WRAPPED UP WE WILL NOT HAVE HAD PUBLIC COMMENT BACK, UNDERSTANDING THAT. BUT WE MAY SOON COME TO A POINT WHERE WE CAN TURN OUR ATTENTION ELSEWHERE WHICH MAY BE A WELCOME DAY. AND SO THAT'S WHY I PUT THAT LIST OUT THERE. I KNOW SHERINE WAS INTERESTED IN WHAT ELSE WE MIGHT HAVE ON OUR PLATE SO PLEASE BE AWARE AND WE WILL WANT TO TURN OUR ATTENTION TO THE COOPERATIVE ENGAGEMENT AND MAYBE NEXT WEEK OR MAYBE IN THE CALL AFTER NEXT WEEK BUT WE MAY AT SOME POINT WANT TO DISCUSS THE CONSTITUTION OF THE IOT TEAM ITSELF, YOU KNOW, HOW DO WE FEEL? WE'RE A SMALL GROUP AND WE HAVE BECOME MUCH MORE EFFECTIVE RECENTLY, DO WE WANT TO CONSIDER HOW WE MOVE FORWARD? I'LL JUST STATE IT GENERALLY LIKE THAT. AND SORT OF AS A FOLLOW ON TO WHAT WE DISCUSSED LAST WEEK. BUT THAT'S REALLY WHAT THE PURPOSE WAS TO PUT MY THOUGHTS ON PAPER OF WHAT WE YET HAVE TO DO. I DON'T THINK I MISSED ANYTHING BUT I MIGHT HAVE SO IF YOU SEE ANYTHING WHILE YOU GO THROUGH THE RULES I ENCOURAGE YOU TO FLAG IT. ANY QUESTIONS OR COMMENTS BEFORE WE GO TO ANY OTHER BUSINESS? SO LET'S GO TO ANY OTHER BUSINESS. I'LL STATE ONE THING. I'LL REITERATE WHAT I WAS ASKING. THIS MAY BE ESPECIALLY HELPFUL AT ICANN 62 FOR THOSE GOING TO ATTEND IS PLEASE, AGAIN, BE MINDFUL TO HELP YOUR VARIOUS ADVISORY COMMITTEES AND SUPPORTING ORGANIZATIONS ON THEIR WORK TO ESTABLISH A STANDING PANEL. IT'S IMPORTANT WORK AND I KNOW THERE'S A LOT GOING ON BUT PLEASE HELP YOUR ORGANIZATION AS BEST YOU CAN. ANYBODY

ELSE HAVE ANYTHING THEY WANT TO STATE ON ANY OTHER BUSINESS? IF NOT, I'LL GO TO WORK IN THE NEXT DAY OR SO ON A MAIL ABOUT TYPES OF HEARINGS AND WE'LL LOOK FOR SOMETHING FROM SAM AND LIZ ON THE INTERIM RULES AND BERNIE I MIGHT ASK YOU TO SORT OF REMIND US THAT WE NEED TO GET IN TOUCH WITH HOLLY AND WE'LL FIGURE OUT HOW TO DO THAT. AGAIN THAT'S NOT GOING TO BE A SUBSTANTIVE DISCUSSION, IT'S GOING TO BE DEAR HOLLY, HERE IS WORK COMING YOUR WAY, SORRY IT'S LATE AND HAS TO BE DONE IN THE NEXT FEW WEEKS, BUT THAT'S THE WAY IT IS. BEFORE WE WRAP UP, DOES ANYBODY WANT TO MAKE ANY STATEMENTS, HAVE ANY COMMENTS? QUESTIONS? I'LL LOOK UP TO THE TOP. NOPE. IF NOT THEN THAT'S THE END OF THIS CALL. I WANT TO THANK EVERYBODY FOR BEING HERE AND SEE YOU NEXT WEEK AND THEY'LL BE SOME MAIL IN THE INTERIM. GOOD BYE EVERYBODY. THANKS VERY MUCH.