

**Jurisdiction Meeting #22 (1 March @ 13:00 UTC)**

# Attendees:

**Sub-group Members:** Andreea Brambilla, Andrew Harris, Avri Doria, Becky Burr, Cheryl Langdon-Orr, David McAuley, Erich Schweighofer, Finn Petersen, Greg Shatan, Herb Wayne, Kavouss Arasteh, Mathieu Weill, Par Brumark, Parminder Singh, Paul McGrady, Philip Corwin, Seun Ojediji, Vidushi Marda (18)

## Observers/Guests:

**Staff:** Bernard Turcotte, Berry Cobb, Brenda Brewer, Karen Mulberry, Meghan Healy, Nigel Hickson, (Richard-PGI Tech Support) (6)

**Apologies:** Jorge Cancio, Paul Rosenzweig

*\*\* If your name is missing from attendance or apology, please send note to [acct-staff@icann.org](mailto:acct-staff@icann.org) \*\**

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## Transcript

- [Word Doc](#)
- [PDF](#)

## Recording

- [Adobe Connect Replay](#)
- [mp3 Replay](#)

## Agenda

1. Welcome
2. Review of Agenda
3. Administration (5 minutes)
  - 3.1. Questions to ICANN Legal – Status of Legal Committee
  - 3.2. Hypotheticals document – Propose suspending the work until ICANN Legal responds to the questions.
  - 3.3. “Influence of ICANN’s Existing Jurisdiction” document – Propose suspending the work until this group completes the review of ICANN’s past and current litigation which will inform the development of that document.
4. Questionnaire Update (20 minutes)
  - 4.1. Method for processing responses
    - 4.1.1. Rolling review of responses – Propose new responses to the questionnaire to be reviewed by the Jurisdiction sub-group at each meeting.
    - 4.1.2. Proposal for a review team – Propose review team will be responsible for updating the sub-group on new responses and their status at each meeting as well as elaborating an evaluation framework for responses, for approval by the sub-group, based on the responses received.
    - 4.1.3. Selection of the review team
  - 4.2. Review of current responses in tool (document)
5. Review of ICANN’s Past and Current Litigation (30 minutes)
  - 5.1. Review of Sign-up sheet (document)
  - 5.2. Verisign, Inc. v. ICANN V2 – MW (document)
  - 5.3. State of Arizona vs NTIA V2 - MW (document)
  - 5.4. Ben Haim v. Iran.... – MW (document)
  - 5.5. DCA v. ICANN - DM (document)
  - 5.6. DCA V. ICANN – Appellate Court - DM (document)
  - 5.7. Review of summary sheet template (document)
6. AOB

## Notes (including relevant parts of the chat):

15 participants at start of call

## 1. Welcome

## 2. Review of Agenda

Greg Shatan - any modifications? (none).

Kavouss Arasteh (15 minutes into the call) - lodging complaint about trouble being completed. Also, please speak slowly.

Cheryl Langdon-Orr (CLO): I was only just connected to audio/phone as well Kavous there were obviously complications

## 3. Administration (5 minutes)

### 3.1. Questions to ICANN Legal – Status of Legal Committee

Greg Shatan - Leon Sanchez has forwarded our questions to CCWG-Acct Legal comm.

### 3.2. Hypotheticals document – Propose suspending the work until ICANN Legal responds to the questions.

Parminder - this is a slightly different than what has been asked but they may be sequential.

Greg Shatan - any other comments? (none). Documents will remain open for comments and people can contribute to them in the meantime we take them up again as a group. Any objection? (none).

David McAuley (RySG): support that Greg

Decision: The sub-group will suspend work on the Hypotheticals Document as a group. The document will remain open to individual contributions until the document returns to the sub-group for consideration.

### 3.3. “Influence of ICANN’s Existing Jurisdiction” document – Propose suspending the work until this group completes the review of ICANN’s past and current litigation which will inform the development of that document.

Parminder - similar nature to my comment on 3.2. Would ask to keep this document open since review of litigation is not all the information for this document.

Greg Shatan - Agree with Parminder and as per previous point the document will remain open for comments. Any objections? (none).

Decision: The sub-group will suspend work on the Influence of ICANN’s Existing Jurisdiction document as a group. The document will remain open to individual contributions until the document returns to the sub-group for consideration.

## 4. Questionnaire Update (20 minutes)

### 4.1. Method for processing responses

#### 4.1.1. Rolling review of responses – Propose new responses to the questionnaire to be reviewed by the Jurisdiction sub-group at each meeting.

Greg Shatan - Any objections (none).

Parminder - Responses will be available to the sub-group.

Greg Shatan – yes – they are posted on the Jurisdiction wiki as they come in.

Decision: The sub-group will review all new responses to its questionnaire at each of its meetings.

#### 4.1.2. Proposal for a review team – Propose review team will be responsible for updating the sub-group on new responses and their status at each meeting as well as elaborating an evaluation framework for responses, for approval by the sub-group, based on the responses received.

Greg Shatan - presentation of general expectations of review team.

Kavouss Arasteh - Is sound ok now? suggest review team and evaluation team are separate but they should be balanced from all SOACs.

Greg Shatan - Only one team. In terms of balance hoping we get volunteers from all groups.

Mathieu Weill: Happy to help

Mathieu Weill: Also, please all consider doing outreach about the questionnaire in your respective groups

Greg Shatan - any objections? (none).

David McAuley (RySG): sorry, let's label the RT as a pilot - the job might eat up the team's time so let's make it easy for them to seek relief.

Greg Shatan - Good suggestion DM.

Kavouss Arasteh: Blanced team

Decision: The sub-group will have a review team composed of participants of the Jurisdiction sub-group. This will be a pilot project for the moment and membership in the RT will remain open for the moment. The team, subject to sub-group approval, will be responsible for looking at all the responses to the questionnaire, analyzing these, presenting these to the sub-group at its meetings, evolving the tracking tool and developing analysis criteria for the responses.

#### 4.1.3. Selection of the review team

Greg Shatan - Volunteers? MW, Parminder, DM, KA, VMarda. Thank you.

David McAuley (RySG): If these volunteers plan to be in Copenhagen maybe we can meet briefly. Action Item – staff to try to organize an informal meeting of the RT in Copenhagen.

Mathieu Weill: +1 david. Good idea

Kavouss Arasteh: May I propose that Mathieu coordinating the wroks of the team

Mathieu Weill: Kavouss : thanks but that might be beyond my abilities And not very good to have too many hats

Kavouss Arasteh: I do not thing any one oppose to my suggestion provided that mMathieu kindly agrees to that.

Decision: Initial members of the RT will be Mathieu Weill, Parminder, David McAuley, Vidushi Marda.

Action Items:

- [Rapporteur to announce RT to the list and solicit additional members from the sub-team participants.](#)
- [Staff to organize and ad-hoc meeting of those members of the RT who will be present at ICANN58 while they are in Copenhagen.](#)

#### 4.2. Review of current responses in tool (document).

Greg Shatan - Review of tool

Kavouss Arasteh - Is there any threshold to make this valid?

Greg Shatan - Good topic for the Review Team. We will also review these responses individually - this is not about voting - its more an information gathering process.

Kavouss Arasteh - need wide representation on responses.

Greg Shatan - depends on who responds. Any comments on the tool itself or the comments received to date?

Kavouss Arasteh - deadline is 17 April - I wish to include the source of the information.and we should not forget the views of the minority.

Greg Shatan - Reminder this is a questionnaire and not a survey - sources can be added - all of this is really details for the Review Team.

Kavouss Arasteh - Source is important.

David McAuley (RySG): good point, @Kavouss -

Seun Ojedeji: I agree with Kavouss

Greg Shatan - For the review team to consider. We need to give each response its due consideration to find facts - this what the questionnaire is about.

David McAuley (RySG): Agree to let RT grapple with this first

### 5. Review of ICANN's Past and Current Litigation (30 minutes)

#### 5.1. Review of Sign-up sheet (document)

Mathieu Weill: I'll look at [Pool.com](#) (the only one in front of a non US court)

Vidushi Marda: i can look at ruby glen

Kavouss Arasteh - Please send a request on the list to get volunteers and give a week. Parminder may wish to volunteer for some.

Greg Shatan - Good suggestion

avri doria: i'll volunteer for Auerbach vs ICANN

David McAuley (RySG): those picking cases here please be sure to put name in tool - so others don't duplicate work

avri doria: what is the url for this sheet?

Mathieu Weill: <https://docs.google.com/document/d/1oo9oDJuuxFz1UUNaBfHeor7HPhJ5XcRHFTq3hjRitOM/edit>

Action Items:

- [Rapporteur to communicate sign-up sheet to sub-group list and solicit volunteers to sign-up to review cases.](#)
- [Mathieu Weill to review the Pool.com v. ICANN case](#)
- [Vidushi Marda to review the Ruby Glen v. ICANN case](#)
- [Avri Doria to review Auebach v. ICANN case.](#)
- [Staff to update the sing-up sheet for these cases.](#)

#### 5.2. Verisign, Inc. v. ICANN V2 – MW (document)

Mathieu Weill: Was not really sure of choice of law / governing law so might need to add

Parminder - It would be interesting on these cases if they are a matter of facts or principles - given we are considering jurisdiction vs ICANN policies.

David McAuley (RySG): if we add to the form lets please write down what we are adding so reviewers are not guessing

Greg Shatan - Good suggestion - under outcome. Lets also note if the court considered jurisdiction. Action Item: Will review the form.

David McAuley (RySG): courts always "discuss" JX just to say they have it.

Parminder: it is significant that court asserts jurisdiction, and full jurisdiction on different icann policy issues

Philip Corwin: This is the litigation that ended with what was then the very controversial .com settlement

Mathieu Weill - we need to make all the questitons in the form crystal clear.

Greg Shatan - Good suggestion.

Kavouss Arasteh - I will have suggestions for this form. Two different type of judgements etc.

Greg Shatan - Godd suggestion - please provide input on list. We have run out of time and will adjourn.

Action Items:

- [Kavouss Arasteh will provide his comments on the form to the list this week.](#)
- [Greg Shatan will review the evaluation form per the discussion today for the next meeting of the sub-group.](#)

## Summary of Decisions and Action Items:

Decisions:

- The sub-group will suspend work on the Hypotheticals Document as a group. The document will remain open to individual contributions until the document returns to the sub-group for consideration.
- The sub-group will suspend work on the Influence of ICANN's Existing Jurisdiction document as a group. The document will remain open to individual contributions until the document returns to the sub-group for consideration.
- The sub-group will review all new responses to its questionnaire at each of its meetings.
- The sub-group will have a review team composed of participants of the Jurisdiction sub-group. This will be a pilot project for the moment and membership in the RT will remain open for the moment. The team, subject to sub-group approval, will be responsible for looking at all the responses to the questionnaire, analyzing these, presenting these to the sub-group at its meetings, evolving the tracking tool and developing analysis criteria for the responses.
- Initial members of the RT will be Mathieu Weill, Parminder, David McAuley, Vidushi Marda.

Action Items:

- [Rapporteur to announce RT to the list and solicit additional members from the sub-team participants.](#)
- [Staff to organize and ad-hoc meeting of those members of the RT who will be present at ICANN58 while they are in Copenhagen.](#)
- [Rapporteur to communicate sign-up sheet to sub-group list and solicit volunteers to sign-up to review cases.](#)
- [Mathieu Weill to review the Pool.com v. ICANN case](#)
- [Vidushi Marda to review the Ruby Glen v. ICANN case](#)
- [Avri Doria to review Auebach v. ICANN case.](#)
- [Staff to update the sing-up sheet for these cases \(completed\)](#)
- [Kavouss Arasteh will provide his comments on the form to the list this week.](#)
- [Greg Shatan will review the evaluation form per the discussion today for the next meeting of the sub-group.](#)

## Documents Presented

- [ICANNLitigationsSign-UpSheet-20170228.pdf](#)
- [Form Jurisdiction case Verisign vs ICANN v2.pdf](#)
- [Form Jurisdiction case Arizona State vs NTIA v2 .pdf](#)
- [Form Jurisdiction case Ben Haim - Iran.pdf](#)
- [Form JX case - DCA v. ICANN - Appellate Court - DM.pdf](#)
- [Form Jurisdiction case - DCA v. ICANN - DM.pdf](#)
- [Jurisdiction-Questionnaire-Responses-Summary-20170228.pdf](#)
- [Jurisdiction-SummaryofLitigationFormV2.pdf](#)

## Chat Transcript

Brenda Brewer: (3/1/2017 06:39) Good day all and welcome to Jurisdiction Subgroup Meeting #22 on 1 March 2017 @ 13:00 UTC!

Herb Wayne Ombuds: (06:56) Hello everyone

Bernard Turcotte Staff Support: (06:59) good day all

Mathieu Weill: (07:00) Hello

Pär Brumark (GAC Niue): (07:00) Hello everyone!

Bernard Turcotte Staff Support: (07:00) Please mute if not speaking

Kavouss Arasteh: (07:01) Brenda

Brenda Brewer: (07:01) Calling you Kavouss

Kavouss Arasteh: (07:01) Hi.Pls advise to call me

Kavouss Arasteh: (07:01) Tks

David McAuley (RySG): (07:01) I was ill yesterday and lost a lot of time to prepare – happy to be here but need to make up reading list and can weigh in later

Becky Burr: (07:01) good morning from DC

Kavouss Arasteh: (07:02) David

Kavouss Arasteh: (07:02) Happy to feel better

David McAuley (RySG): (07:02) yes, many thanks Kavouss

Kavouss Arasteh: (07:03) Dear Brenda, May you advise to call me

Kavouss Arasteh: (07:03) Tks

Kavouss Arasteh: (07:03) Bernie

Kavouss Arasteh: (07:03) Good early morning .

Kavouss Arasteh: (07:03) Pls advise the operator to dial me up .tks

Brenda Brewer: (07:04) Experiencing dial out difficulties. Continuing to try your dial out Kavouss.

Kavouss Arasteh: (07:04) tks

Kavouss Arasteh: (07:05) Grec, I am waiting to be dialed up as there might be some difficulties to do so

Philip Corwin: (07:05) Good day all

Mathieu Weill: (07:06) A comment : it's great to have such a detailed agenda, great job !

David McAuley (RySG): (07:06) +1 AMathieu

David McAuley (RySG): (07:06) that is @ M...

Kavouss Arasteh: (07:07) Mathieu, it is also ambitious to have such long agenda

Kavouss Arasteh: (07:08) Could the secretariat advise what is the problem that they can not dial me up

Brenda Brewer: (07:09) Kavouss, the Adobe system will not allow the dial out at this time. I am contacting operator for help. Please stand by.

Kavouss Arasteh: (07:09) Grec, I am not connected yet

Kavouss Arasteh: (07:10) Greg sorry

Bernard Turcotte Staff Support: (07:10) Parminder your hand is still up

Parminder: (07:10) sorry thanks

David McAuley (RySG): (07:10) Good point Greg, docs remain open

David McAuley (RySG): (07:10) support that Greg

Kavouss Arasteh: (07:11) Greg pls slow down when talkingi

Kavouss Arasteh: (07:11) No connection . pls read chat

Parminder: (07:12) new hand

Kavouss Arasteh: (07:12) Dear Greg. I am still waiting to be connected

Brenda Brewer: (07:13) An operator will be calling you soon Kavouss.

Kavouss Arasteh: (07:13) now connected

Bernard Turcotte Staff Support: (07:14) Kavouss hand

Mathieu Weill: (07:15) Very faint

Mathieu Weill: (07:15) Kavouss was faint

David McAuley (RySG): (07:15) i could hear Kavouss faintly as well

Brenda Brewer: (07:15) Getting help regarding Kavouss's line. stand by please.

Bernard Turcotte Staff Support: (07:17) hand Parminger

Bernard Turcotte Staff Support: (07:18) Parminder

Bernard Turcotte Staff Support: (07:19) they are on the Jurisdiction wiki

Bernard Turcotte Staff Support: (07:19) as they come in

Cheryl Langdon-Orr (CLO): (07:21) I was only just connected to audio/phone as well Kavous there were obviously complications

David McAuley (RySG): (07:23) well heard now

Mathieu Weill: (07:26) Happy to help

Mathieu Weill: (07:26) Also, please all consider doing outreach about the questionnaire in your respective groups

Mathieu Weill: (07:26) Did so at CENTR today

David McAuley (RySG): (07:26) Trying new mic – sorry, will put in chat

David McAuley (RySG): (07:27) sorry, let's label the RT as a pilot = the job might eat up the team's time so let's make it easy for them to seek relief

Kavouss Arasteh: (07:27) Blanced team

David McAuley (RySG): (07:29) I will volunteer

Kavouss Arasteh: (07:29) kavouss

Vidushi Marda: (07:29) I volunteer

David McAuley (RySG): (07:30) If these volunteers plan to be in Copenhagen maybe we can meet briefly

Mathieu Weill: (07:30) +1 david. Good idea

Kavouss Arasteh: (07:30) May I propose that Mathieu coordinating the wroks of the team

Mathieu Weill: (07:31) Kavouss : thanks but that might be beyond my abilities

Mathieu Weill: (07:31) And not very good to have too many hats

Kavouss Arasteh: (07:32) I do not thing any one oppose to my suggestion provided that mMathieu kindly agrees to that

Bernard Turcotte Staff Support: (07:33) will bring up the document momentarily

Paul McGrady: (07:37) Apologies, but I need to leave the call early. Have a great day all.

Bernard Turcotte Staff Support: (07:40) time check - 20 minutes left in call

Vidushi Marda: (07:41) Is it just me or did the audio drop?

David McAuley (RySG): (07:41) I can still hear after a pause

Mathieu Weill: (07:41) yes Greg

Brenda Brewer: (07:41) Audio is good

Parminder: (07:41) the audio is fine - did not drop at all for me

Vidushi Marda: (07:42) Hi - could I please have a dial out? I've lost all audio!

David McAuley (RySG): (07:42) now silent

Brenda Brewer: (07:42) Vidushi, private chat me your phone number, please

Bernard Turcotte Staff Support: (07:43) hands

David McAuley (RySG): (07:43) two hands Greg

Cheryl Langdon-Orr (CLO): (07:43) lots of audio issues today... I can however now still hear Greg

David McAuley (RySG): (07:44) we should put source if responder did, no? maybe they are replying personally

Parminder: (07:45) i am ok, dont ned the mic now

David McAuley (RySG): (07:46) good point, @Kavouss -

Seun Ojedeji: (07:46) I agree with Kavouss

Herb Wayne Ombuds: (07:47) Must check out now... have a great day all...

Cheryl Langdon-Orr (CLO): (07:47) bye Herb

David McAuley (RySG): (07:48) Agree to let RT grapple with this first

Erich Schweighofer: (07:49) Another meting - sevus.

David McAuley (RySG): (07:50) I will take two more

avri doria: (07:50) i apologize as well for having volunteered for this task yet have done nothing.

Mathieu Weill: (07:50) I'll look at [Pool.com](http://Pool.com) (the only one in front of a non US court)

David McAuley (RySG): (07:51) into the pool Mathieu

Vidushi Marda: (07:51) i can look at ruby glen

Mathieu Weill: (07:51) @David : feels like swimming in legalese sometimes

David McAuley (RySG): (07:51) LOL

avri doria: (07:51) i'll volunteer for Auerbach vs ICANN

Mathieu Weill: (07:52) @Avri : nice one !

David McAuley (RySG): (07:52) those picking cases here please be sure to put name in tool - so others don't duplicate work

avri doria: (07:52) what is the url for this sheet?

avri doria: (07:53) or i guess it is on the community page.

Mathieu Weill: (07:53) [https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_docs.google.com\\_document\\_d\\_1oo9oDJuuxFz1UUNaBfHeor7HPhJ5XcRHFTq3hjRltOM\\_edit&d=DwlFaQ&c=FmY1u3PJp6wrcwll3mSVzgfkbPSS6sJms7xcl4l5cM&r=kbiQDH54980u4nTPfwdloDLY6-6F24x0ArAvhdeDvvc&m=Dlg7Jlestrn8FAFm9FFnEsbD-ofPrubCMKpWxcMW4a4&s=JuMrB8Bsy7II1yifbN6f6g\\_NHzRxnOPVbQgdLXspF3s&e=](https://urldefense.proofpoint.com/v2/url?u=https-3A__docs.google.com_document_d_1oo9oDJuuxFz1UUNaBfHeor7HPhJ5XcRHFTq3hjRltOM_edit&d=DwlFaQ&c=FmY1u3PJp6wrcwll3mSVzgfkbPSS6sJms7xcl4l5cM&r=kbiQDH54980u4nTPfwdloDLY6-6F24x0ArAvhdeDvvc&m=Dlg7Jlestrn8FAFm9FFnEsbD-ofPrubCMKpWxcMW4a4&s=JuMrB8Bsy7II1yifbN6f6g_NHzRxnOPVbQgdLXspF3s&e=)

avri doria: (07:53) thanks

David McAuley (RySG): (07:55) Mathieu did this

Mathieu Weill: (07:55) Was not really sure of choice of law / governing law so might need to add

Bernard Turcotte Staff Support: (07:55) hand

Bernard Turcotte Staff Support: (07:56) time check: 5 minutes left

David McAuley (RySG): (07:57) if we add to the form lets please write down what we are adding so reviewers are not guessing

David McAuley (RySG): (07:58) courts always "discuss" JX just to say they have it

David McAuley (RySG): (07:59) on mute

Parminder: (07:59) it is significant that court asserts jurisdiction, and ful jurisdiction on different icann policy isuses

Philip Corwin: (07:59) This is the litigation that ended with what was then the very controversial .com settlement

David McAuley (RySG): (08:01) when is next meeting?

David McAuley (RySG): (08:02) thanks Greg

Seun Ojedeji: (08:03) Thanks and Bye

David McAuley (RySG): (08:03) Thanks all, good bye

avri doria: (08:03) bye

Philip Corwin: (08:03) The settlement established the principle of presumptive renewal that later made its way into all new gTLD RAs

Mathieu Weill: (08:03) Thanks

Pär Brumark (GAC Niue): (08:03) Thx all! Bye!

Bernard Turcotte Staff Support: (08:03) bye all

Nigel Hickson: (08:03) thank you - safe travels

Cheryl Langdon-Orr (CLO): (08:03) bye