

Jurisdiction Meeting #18 (24 January @ 13:00 UTC)

Attendees:

Sub-group Members: Andreea Brambilla, Avri Doria, Becky Burr, Cheryl Langdon-Orr, Christopher Wilkinson, David McAuley, Erich Schweighofer, Farzaneh Badii, Greg Shatan, Herb Waye, Mary Uduma, Mathieu Weill, Matthew Shears, Wale Bakare, Yrjö Länsipuro (15)

Observers/Guests: Igor Resende, Silvana Rivero (2)

Staff: Bernie Turcotte, Brenda Brewer, Nigel Hickson (3)

Apologies: Finn Petersen, Kavouss Arasteh, Jorge Cancio

*** If your name is missing from attendance or apology, please send note to acct-staff@icann.org ***

Transcript

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

Recording

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

Agenda

1. Welcome
2. Questionnaire
 - a. Publishing and Announcing the Questionnaire
 - b. Time Period for Responses to the Questionnaire
 - c. Translation
3. Small Group Review of ICANN's Past and Current Litigation
 - a. Litigations: <https://www.icann.org/resources/pages/governance/litigation-en>
 - b. Draft Summary Form: https://docs.google.com/document/d/1efkQOvSwW-2m1T_u6anFMVUeiHoO6P4PR3-0mWIU_Cs/edit?usp=sharing
 - c. Sign-Up Sheet: <https://docs.google.com/document/d/1oo9oDJuuxFz1UUNaBfHeor7HPhJ5XcRHFTq3hjRltOM/edit?usp=sharing>
4. "Influence of ICANN's Existing Jurisdiction" document, Section C
 - a. https://docs.google.com/document/d/1_uxN8A5J3iaofnGlr5gYoFVKudgg_DuwDgluyICPzbk/edit?usp=sharing
5. AOB
6. Adjourn

Notes (including relevant portions of chat):

9 Participants at start of call

1. Welcome

Greg Shatan: Apologies from Kavouss Arasteh, Jorge Cancio. Becky Burr audio only. Updates to SOIs? (none).

2. Questionnaire

a. Publishing and Announcing the Questionnaire

Greg Shatan: Has been discussing on list. Suggest announce of ICANN Public comments page and then point to a URL. It can then be published or referenced by any of us. No objections. Will proceed as such if ICANN has no objections.

b. Time Period for Responses to the Questionnaire

Greg Shatan: we have a number of options to consider.

Mathieu Weill: If we publish with translation between 8 to 10 February the standard 42 day period would end after ICANN 58.

David McAuley: Support MW. We should be preparing to analyze the questionnaire responses as responses come in - may be efficient to have a team for this.

c. Translation

Greg Shatan: Translation in the standard UN languages is built into the plan and will publish all at the same time. Any comments

David McAuley: Are we going beyond the UN 6?

Greg Shatan: No decision yet regarding Farsi.

David McAuley: FB suggestion is noble but would urge caution in going beyond the UN 6. Would recommend we stick with the standard UN 6.

Cheryl Langdon-Orr: DM points well taken. would like to point out that are issues with non-professional translation. ALAC uses these services and often goes beyond the UN6 into Portuguese often. Reverse translation issue will still be there.

Matthew shears: it is always wise to use accepted languages

Mathieu Weill 2: accepted practice in general I would add

David McAuley (RySG): Good point CLO about the large number of Asian Pacific languages - I for one speak a little Tagalog and my wife, from Manila, speaks it fluently - a beautiful language.

Avri Doria: Unless there is a specific reason to go beyond the UN 6 do not understand why we would expand - and any translation should be professional. If someone wants to translate informally to distribute it to their contacts this is fine but responses have to be in the UN 6.

Greg Shatan: temp check Limit to UN6 - (6+ and none against). Going beyond UN6 and have a specific suggestion? (none, 1 gainst). Will do the standard UN languages.

Farzaneh Badii: oops I got here late. But suggesting Farsi was not because it was an Asian language. Iranians are affected by ICANN jurisdiction more than those that speak Telugu or other things

Farzaneh Badii: another thing added to my tasks

Vidushi Marda: Farzi - I don't think that's fair to say, it has atleast 85 million native speakers.

Farzaneh Badii: Vidushi we have cases should be discussed

Farzaneh Badii: it's not about how many speak it

Vidushi Marda: agreed - but this is forward looking and there are many people interested in the work of this group - who are :)

Farzaneh Badii: your argument resulted in an a decision that just adds to my workload. and not many Iranians are going to respond to these in english

Vidushi Marda: agreed, I'm not saying it isn't important at all

Farzaneh Badii: and I don't know how accurate informal translation is going to be,. I am not going to give up on this and will translate but this was not a decision to make by arguing just that oh there are so many other languages

Farzaneh Badii: I have given specific examples how Iranians are affected

Farzaneh Badii: did anyone do that who speaks some other language? anyhow. doesnt matter spending life on ICANN might be good for me

3. Small Group Review of ICANN's Past and Current Litigation

a. Litigations: <https://www.icann.org/resources/pages/governance/litigation-en>

Greg Shatan: Review of the 35 or so cases. Have prepare a suggestion for a draft summary form and circulated for comments.

b. Draft Summary Form: https://docs.google.com/document/d/1efkQOvSwW-2m1T_u6anFMVUeiHoO6P4PR3-0mWIU_Cs/edit?usp=sharing

Greg Shatan: Review of Summary report draft form.

David McAuley (RySG): maybe make it a binary question - was jurisdiction contested in any manner

Matthew shears: perhaps the justification for considering it relevant to our work should be the last line of the summary

Mathieu Weill 2: Our "influence" doc has 3 categories we could map to cases : Influence on operation of ICANN policies, of ICANN acct mechanisms, on Disputes involving ICANN - We could tag according to this.

Farzaneh Badii: are we going to discuss arbitration cases to (if there are any?)

Greg Shatan: Stick with the list which includes the 1 arbitration case. Action Item: GS to edit the draft summary form per discussions.

David McAuley (RySG): Greg - do we have a time scale for this effort?

Greg Shatan: 35 cases and 9 volunteers = about 4 cases per person - 3 weeks should be enough (Action Item for Analysis team members: reports would be due 14 February).

David McAuley (RySG): ok

c. Sign-Up Sheet:

<https://docs.google.com/document/d/1oo9oDJuuxFz1UUNaBfHeor7HPhJ5XcRHFTq3hjRltOM/edit?usp=sharing>

Greg Shatan: -

4. "Influence of ICANN's Existing Jurisdiction" document, Section C

https://docs.google.com/document/d/1_uxN8A5J3iaofnGlr5gYoFvKudgg_DuwDgluyICPzbk/edit?usp=sharing

David McAuley: Is this just about the US or are we looking at what would happen elsewhere?

Greg Shatan: Good questions, will have to refine our working method as to how input in.

David McAuley (RySG): I think that is a good comment on my comment Greg – this asks us to wonder about the future when we have past performance to judge by – why not go by that?

Mathieu Weill: Use Plaintiff language as suggested by GS. will also help us classify the cases.

David McAuley (RySG): Good point Mathieu. You state is that ICANN can be sued in other jurisdictions. It may be worth asking our external legal counsel about that in the digital age.

Greg Shatan: DM good question. Action Item: DM will propose on the list.

David McAuley (RySG): ok, will do

David McAuley (RySG): a bit later in the week

Greg Shatan: Any other comments? (none). Continue discussion of document. Keeping parties accountable is good - so allowing people to sue allows for this.

David McAuley (RySG): I think Greg makes a fair point about capacity to be sued - a basic thing that is easy to perhaps overlook at times.

Greg Shatan: This is an important part of our work and hope that we can have better discussions on this.

David McAuley: I have not been back to this document recently. this is important and we need to get back to it. suggest we note it in the agenda.

Greg Shatan: I would take it further and extract the questions and distribute as a specific assignment to help people focus.

David McAuley (RySG): good idea - and ask us to generate questions about it too

David McAuley (RySG): this may take several weeks

5. AOB (none)

6. Adjourn

Decisions:

- Questionnaire will be announced on ICANN Public Comment page which will have a web link to it.
- Questionnaire will only be translated in the official UN languages by ICANN Language services.
- Questionnaire will be published in all languages simultaneously.
- Time period for responding to questionnaire should be standard 42 days (it is expected that the translations will be available between the 8th and 10th of February which would put the closing 24 March) extensions for those requesting this could be possible.
- Review of ICANN's Past and Current Litigation will only focus on the 35 cases listed on the web site and not include IRP etc.

Action Items:

- Greg Shatan to redraft Summary Form per comments today and distribute to list.
- Volunteers to analyze cases using forms should pick their cases (sign up sheet) and complete their analysis per the Form for 14 February.
- David McAuley will draft a question this for external counsel regarding the possibility of ICANN being sued in other jurisdiction in the digital age. This will be distributed on the list for comments.
- Greg Shatan will prepare questions from the "Influence of ICANN's Existing Jurisdiction" document for the sub-group's next meeting and distribute on the list.

Action Items

- [Greg Shatan to redraft Summary Form per comments today and distribute to list.](#)
- [Volunteers to analyze cases using forms should pick their cases \(sign up sheet\) and complete their analysis per the Form for 14 February.](#)
- [David McAuley will draft a question this for external counsel regarding the possibility of ICANN being sued in other jurisdiction in the digital age. This will be distributed on the list for comments.](#)
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Documents Presented

- [ICANN LITIGATION SUMMARY](#) | [\(google doc here\)](#)

Chat Transcript

Brenda Brewer: (1/24/2017 06:45) Good day and welcome to Jurisdiction Subgroup Meeting #18 on 24 January @ 13:00 UTC!

David McAuley (RySG)4: (06:59) Hi Brenda, I am 4154 again

Brenda Brewer 2: (06:59) Thank you David!

Bernard Turcotte Staff Support: (06:59) hello all

Herb Wayne Ombuds: (06:59) Good morning everyone

David McAuley (RySG)4: (06:59) Hi Bernie, all

Greg Shatan: (07:00) Hello, all.

Cheryl Langdon-Orr (CLO): (07:01) hi all...

Nigel Hickson: (07:02) good afternoon

Mary Uduma: (07:04) Good evening all

David McAuley (RySG)4: (07:06) I think that is right Greg, that is how I recall it

Cheryl Langdon-Orr (CLO): (07:07) yup

David McAuley (RySG)4: (07:08) Not sure where the number 4 came from in my name in chat but I embrace it 4thrightly

Wale Bakare: (07:09) Hi all. Good morning/afternoon/evening

Vidushi Marda: (07:10) +1 David

Mathieu Weill 2: (07:10) Agree David, especially since this is a fact finding exercise, not a public comment for approval / objections

matthew shears: (07:15) it is always wise to use accepted language

Mathieu Weill 2: (07:15) accepted practice in general I would add

David McAuley (RySG): (07:18) Good point CLO about the large number of Asian Pacific languages - I for one speak a little Tagalog and my wife, from Manila, speaks it fluently - a beautiful language.

David McAuley (RySG): (07:19) Thanks CLO

Wale Bakare: (07:21) If someone volunteers to translate to languages outside the 6 recognized languages, it should be accepted.

David McAuley (RySG): (07:23) Greg you are encyclopedic

Cheryl Langdon-Orr (CLO): (07:23) exactly Greg where to draw the line.... especially in APAC

avri doria: (07:23) who is doing the formal liturgical latin translation.

David McAuley (RySG): (07:23) Greg you are Wikipedic

David McAuley (RySG): (07:25) my red x acknowledges the good intent - my concern is logistic

David McAuley (RySG): (07:26) agreed to Avri's observations on informal trans

David McAuley (RySG): (07:27) can we also discuss timing on small group project

Farzaneh Badii: (07:27) oops I got here late. But suggesting Farsi was not because it was an Asian language. Iranians are affected by ICANN jurisdiction more than those that speak Telugu or other things

Farzaneh Badii: (07:28) anyhow

Erich Schweighofer: (07:28) Yes, I am joining this group.

Farzaneh Badii: (07:28) another thing added to my tasks

Vidushi Marda: (07:28) Farzi - I don't think that's fair to say, it has at least 85 million native speakers.

Mathieu Weill 2: (07:28) I volunteer for : State of Arizona; State of Texas; State of Oklahoma; and State of Nevada v. National Telecommunications and Information Administration; United States of America Department of Commerce; Penny Pritzker; and Lawrence E. Strickling

Mathieu Weill 2: (07:28) ;-)

Farzaneh Badii: (07:29) Vidushi we have cases should be discussed

Farzaneh Badii: (07:29) it's not about how many speak it

Vidushi Marda: (07:29) agreed - but this is forward looking and there are many people interested in the work of this group - who are :)

Farzaneh Badii: (07:30) your argument resulted in an a decision that just adds to my workload. and not many Iranians are going to respond to these in english

Vidushi Marda: (07:30) agreed, I'm not saying it isn't important at all

Farzaneh Badii: (07:31) and I don't know how accurate informal translation is going to be,. I am not going to give up on this and will translate but this was not a decision to make by arguing just that oh there are so many other languages

Bernard Turcotte Staff Support: (07:31) time check - 30 minutes left in call

Farzaneh Badii: (07:31) I have given specific examples how Iranians are affected

David McAuley (RySG): (07:32) maybe make it a binary question - was jurisdiction contested in any manner

Farzaneh Badii: (07:32) did anyone do that who speaks some other language? anyhow. doesnt matter spendiing life on ICANN might be good for me

matthew shears: (07:33) perhaps the jutification for considering it relevant to our work should be the last line of the summary

Mathieu Weill 2: (07:34) Our "influence" doc has 3 categories we could map to cases : Influence on operation of ICANN policies, of ICANN acct mechanisms, on Disputes involving ICANN

Mathieu Weill 2: (07:34) We could tag according to this

Farzaneh Badii: (07:35) are we going to discuss arbitration cases to (if there are any?)

Mathieu Weill 2: (07:35) Thanks Greg

David McAuley (RySG): (07:36) Greg - do we have a time scale for this effort?

David McAuley (RySG): (07:37) ok

Mathieu Weill 2: (07:38) I need to give it a try to assess the level of effort required

Mathieu Weill 2: (07:38) Sounds reasonable

Farzaneh Badii: (07:39) I am really interested to see some of these answers in 6 UN languages. sigh . sorry I am still going on about this. will stop

Mathieu Weill 2: (07:40) I will have to leave the AC room in a minute but am staying on audio only

Wale Bakare: (07:41) Sorry i have step out. Thanks

Wale Bakare: (07:41) * I have to setp out.

Bernard Turcotte Staff Support: (07:44) time check - 15 minutes left in call

David McAuley (RySG): (07:45) I think that is a good comment on my comment Greg – this asks us to wonder about the future when we have past performance to judge by – why not go by that?

David McAuley (RySG): (07:49) Good point Mathieu

David McAuley (RySG): (07:51) ok, will do

David McAuley (RySG): (07:51) a bit later in the week

Farzaneh Badii: (07:52) I have to leave. Good bye all.

David McAuley (RySG): (07:55) I think Greg makes a fair point about capacity to be sued - a baic think that is easy to perhaps overlook at times

David McAuley (RySG): (07:55) basic, I meant not baic

David McAuley (RySG): (07:55) basic thinG

David McAuley (RySG): (07:58) good idea - and ask us to generate questions about it too

David McAuley (RySG): (07:58) this may take several weeks

David McAuley (RySG): (07:59) Thanks Greg and staff and all

avri doria: (08:00) bye

Cheryl Langdon-Orr (CLO): (08:00) thanks everyone bye for now

Bernard Turcotte Staff Support: (08:00) bye all

Nigel Hickson: (08:00) Thanks and goodbye

Andreea Brambilla: (08:00) Thanks everybody

Mary Uduma: (08:00) bye