

INDEPENDENT REVIEW PROCESS

INTERNATIONAL CENTRE FOR DISPUTE RESOLUTION

GCCIX, W.L.L.,	)	ICDR CASE NO. 01-21-0004-1048
	)	
Claimant,	)	
	)	
and	)	
	)	
THE INTERNET CORPORATION FOR	)	
ASSIGNED NAMES AND NUMBERS,	)	
	)	
Respondent.	)	
_____	)	

**ICANN'S APPLICATION TO STAY THE IRP**

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## INTRODUCTION

Respondent the Internet Corporation for Assigned Names and Numbers (“ICANN”) submits this request to stay the Independent Review Process (“IRP”) proceeding initiated by claimant GCCIX, W.L.L. (“Claimant”), pursuant to Article 27 of the ICDR Rules (“Stay Application”).

1. As explained in detail below, ICANN is seeking a six-month stay of this IRP in order to allow time for ICANN to complete its dialogue with ICANN’s Governmental Advisory Committee (“GAC”), and any potential further action ICANN may take as a result of that dialogue, regarding the GAC’s consensus advice on Claimant’s .GCC application, which is the central issue of the IRP. Given that this process, which is already under way, will likely change the facts, claims and arguments in this action, and could even obviate the need for this IRP, a stay is the most efficient way to proceed.

2. In 2012, ICANN launched the New gTLD Program, under which any interested party could apply to ICANN to operate new generic top-level domains (“gTLDs”) that were not already in use on the Internet. Claimant submitted to ICANN the sole application to operate a .GCC gTLD. As detailed in ICANN’s Response to Claimant’s IRP Request, Claimant’s application encountered immediate opposition from various sources because “GCC” is the well-known acronym for the Gulf Cooperation Council, an Intergovernmental Organization (“IGO”) that consists of six Gulf countries including Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and United Arab Emirates.<sup>1</sup> Claimant’s application was not affiliated with, or supported by, the GCC or its member states and Claimant never identified any efforts to seek the GCC’s consent before submitting its application.

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<sup>1</sup> Response to IRP Request (“Response”), ¶ 2.

3. In 2013, the controversy surrounding Claimant's application culminated in the ICANN Board accepting consensus advice from ICANN's GAC, which is predominantly made up of national governments and IGOs, that Claimant's .GCC application should not proceed ("GAC Advice"). Claimant initiated this IRP challenging the Board's acceptance of the GAC Advice.

4. On 12 September 2021, the ICANN Board held a regularly-scheduled Board meeting, in which the Board discussed, among other agenda items, this IRP. After careful review of the facts underlying this IRP, prior applicable IRP precedent and the recommendation of the ICANN Board Accountability Mechanism Committee ("BAMC") on the topic, the Board concluded that it could be beneficial to seek further information from the GAC regarding its rationale for the GAC Advice on the .GCC application, before proceeding with the .GCC IRP. Accordingly, the Board adopted a resolution authorizing ICANN to seek a stay of this IRP and open a dialogue with the GAC regarding the rationale for the GAC Advice against the .GCC application. That dialogue is currently underway.

5. The ICANN-GAC dialogue, as well as any action that ICANN might take as a result of that dialogue, could have a significant impact on this IRP, including potentially obviating the need for this IRP. And even if these steps do not moot this IRP, such a dialogue and/or just ICANN seeking such a dialogue changes the facts underlying the IRP and may impact the scope of the claims and defenses asserted. Accordingly, both parties would benefit from a stay of this IRP to allow this process to play out and allow the parties to reassess the need for, and the scope of the claims and defenses in, this IRP after the process is complete.

6. ICANN first asked Claimant to agree to a stay of the IRP. Claimant, however, refused even though ICANN's decision to conduct this dialogue with the GAC provides Claimant with much of the relief it seeks in this IRP. ICANN then requested that the Emergency

Panelists address ICANN’s request for the stay, but the Emergency Panelists believed it was beyond his remit from the ICDR. As a result, in light of the Board’s resolution and the resulting dialogue with the GAC that is underway, ICANN is seeking a stay of this IRP from the Panel.

### **SUMMARY OF RELEVANT FACTS**

7. In 2012, ICANN launched the New gTLD Program, through which any interested entity could apply for the opportunity to operate new gTLDs that were not already in use in the Domain Name System (“DNS”). The evaluation of all new gTLD applications submitted in 2012 are governed by the processes set out in the Applicant Guidebook (“Guidebook”). Given the importance of government involvement in ICANN’s governance model, the GAC was given a specified role in providing advice to ICANN on new gTLD applications, particularly applications that “potentially violate national laws or raise sensitivities.”<sup>2</sup>

8. For instance, the Guidebook sets forth a process by which the GAC could issue an “Early Warning[, which] should be taken seriously as it raises the likelihood that the application could be the subject of GAC advice on New TLDs.”<sup>3</sup> The Guidebook further states that if the GAC “advises ICANN that it is the consensus of the GAC that a particular application should not proceed,” then this consensus advice “will create a strong presumption for the ICANN Board that the application should not be approved.”<sup>4</sup>

9. The Guidebook also specifies the role of the Independent Objector (“IO”) in the New gTLD Program, who “does not act on behalf of any particular persons or entities, but acts solely in the best interests of the public who use the global Internet,” and may file a formal

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<sup>2</sup> ICANN gTLD Applicant Guidebook (4 June 2012) § 1.1.2.4, Ex. R-5.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*, § 3.1.

objection to a gTLD application.<sup>5</sup> The IO was put in place to further the public interest, and is therefore “limited to filing objections on the grounds of Limited Public Interest and Community.”<sup>6</sup>

10. In addition, a person or entity that meets the standing requirements is entitled to file a formal objection to an application on four separate grounds, one of which is a legal rights objection (“LRO”).<sup>7</sup> An LRO is meant for situations in which an “applied-for gTLD string infringes the existing legal rights of the objector.”<sup>8</sup> Such an objection could be filed by an IGO if certain criteria are met, including that the organization is “widely considered to have independent international legal personality” and is “the subject of and governed by international law.”<sup>9</sup> LRO proceedings are administered by the World Intellectual Property Organization and Mediation Center (“WIPO”).<sup>10</sup>

11. In 2012, Claimant submitted to ICANN an application to operate a .GCC gTLD.<sup>11</sup> Claimant’s description of its application foreshadowed the controversy it would stir:

GCC refers generally, but not exclusively, to the Cooperation Council for the Arab States of the Gulf.<sup>12</sup> Formed in May 1981 as a regional organization, it consists of six Gulf countries including Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and United Arab Emirates. Its main objectives are to enhance coordination, integration and inter-connection between its members in different spheres. This application is not connected with or sponsored by the Council. .GCC does not purport to represent the Council.<sup>13</sup>

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<sup>5</sup> *Id.*, § 3.2.5.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*, § 3.2.1.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*, § 3.2.2.2.

<sup>10</sup> *Id.*, § 3.2.3.

<sup>11</sup> New gTLD Application submitted to ICANN by GCCIX WLL, Annex 1 to IRP Request (“Annex 1”).

<sup>12</sup> The Cooperation Council for the Arab States of the Gulf is also known as the “Gulf Cooperation Council” or “GCC.”

<sup>13</sup> Annex 1, p. 7.

12. Given this lack of connection with, and lack of support from, the Gulf Cooperation Council, which is commonly referred to as the “GCC,” several objections were raised regarding Claimant’s .GCC application, as detailed in ICANN’s IRP Response:

- Between July and September 2012, numerous public comments were issued to ICANN against the .GCC application because “GCC” it is the well-known acronym of the GCC and Claimant did not have support from the community it targeted with its application.<sup>14</sup>
- Next, on 20 November 2012, the GAC, on behalf of the GCC and the governments of Bahrain, Oman, Qatar and United Arab Emirates (“UAE”), issued a GAC Early Warning expressing “serious concerns” regarding Claimant’s .GCC application because the applied-for gTLD “matches a name of an Intergovernmental Organization” (“IGO”), namely, the GCC, and “[lacks] . . . community involvement and support,” noting that the .GCC application “clearly shows that the applicant is targeting the GCC community which basically covers the 6 member states of the GCC.”<sup>15</sup>
- Thereafter, the IO reviewed Claimant’s .GCC application and identified the “public concerns on this controversial application.”<sup>16</sup> The IO concluded that “the application is contrary to international public order,”<sup>17</sup> but chose not to file an objection because “[t]he Gulf Cooperation Council is already fully aware of the controversial issues and is better placed than the IO to file an objection, if it deems appropriate.”<sup>18</sup>
- Then, on 13 March 2013, the GCC filed an LRO with WIPO against Claimant’s application claiming that the .GCC application “takes unfair advantage of the distinctive character and

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<sup>14</sup> ICANN New gTLD Program Application Comments, Ex. R-8.

<sup>15</sup> GAC Early Warning – Submittal GCC-AE-21010 (20 November 2012), Ex. R-9.

<sup>16</sup> Annex 3 to IRP Request, p. 1.

<sup>17</sup> *Id.*, ¶ 13.

<sup>18</sup> *Id.*, p. 10.

reputation of the objector[’s] IGO acronym as it creates an impermissible likelihood of confusion between the applied for gTLD and the objector’s IGO acronym.”<sup>19</sup>

- Finally, on 11 April 2013, the GAC issued its Beijing Communiqué to ICANN, which provided GAC consensus advice that the .GCC application should not proceed, but did not provide an express rationale in that Communiqué for such advice.<sup>20</sup>

13. As set forth in the Guidebook, Claimant was given an opportunity to respond to the GAC Advice, which it did in May 2013. In that response, Claimant stated that it had been informed by the Chair of the Board’s New gTLD Program Committee (“NGPC”)<sup>21</sup> that it was “the [NGPC’s] understanding that the GAC [...] based on the rationale contained in the Early Warning has reached a consensus to object.”<sup>22</sup> As such, Claimant’s May 2013 response to the GAC Advice in fact responded to the rationale set forth in the Early Warning.<sup>23</sup>

14. In that the Guidebook expressly states that GAC consensus advice against an application creates “a strong presumption for the ICANN Board that the application should not be approved,”<sup>24</sup> the ICANN Board accepted the GAC Advice and halted the processing of Claimant’s application for the .GCC gTLD in June 2013, which ultimately mooted the LRO pending before WIPO.<sup>25</sup> Claimant was invited by ICANN either to withdraw its application and obtain a partial refund or seek relief according to ICANN’s Accountability Mechanisms.<sup>26</sup>

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<sup>19</sup> Annex 5 to IRP Request, p. 7.

<sup>20</sup> GAC Communiqué – Beijing, People’s Republic of China (11 April 2013), Ex. R-11.

<sup>21</sup> The NGPC was comprised of all ICANN Board members who did not have a conflict of interest relating to the New gTLD Program, in addition to two non-voting liaisons. It was formed at the 10 April 2012 meeting of the ICANN Board and was delegated with the full decision-making authority of the Board in matters concerning the New gTLD Program.

<sup>22</sup> GCCIX W.L.L. GAC Advice Response Form, Ex. R-12.

<sup>23</sup> *Id.*

<sup>24</sup> Ex. R-5, § 3.1(I).

<sup>25</sup> Annex 1 to NGPC Resolution No. 2013.06.04.NG01 (4 June 2013), Ex. R-17; Approved Resolution | Meeting of the New gTLD Program Committee (4 June 2013), Ex. R-18.

<sup>26</sup> Ex. R-17, p. 2.



15. In February 2014, Claimant initiated a Cooperative Engagement Process (“CEP”) with ICANN regarding the Board’s action on the .GCC application, which is a process intended to facilitate settlement discussions between the parties to resolve or narrow disputes, akin to a settlement conference.<sup>27</sup> The parties continued to discuss the issues for several years, but did not come to a resolution.<sup>28</sup> Claimant thereafter initiated this IRP in June 2021.<sup>29</sup>

16. In this IRP, Claimant challenges “ICANN’s decision to reject Claimant’s [.GCC] application,” ICANN’s alleged “failure to reasonably investigate or to provide any rationale whether such decision is in the public interest,” and “related actions and inaction of ICANN.”<sup>30</sup> Specifically, Claimant challenges ICANN’s decision: (i) “to accept GAC advice to reject the .GCC application, despite lack of any rationale provided by GAC for its advice”; (ii) “to refuse to request rationale from the GAC, investigate the matter or otherwise consider the public interest”; and (iii) “to refuse to provide any rationale for the NGPC decision to accept GAC advice[.]”<sup>31</sup>

17. On 12 September 2021, the ICANN Board held a regularly-scheduled Board meeting, at which the Board discussed, among other agenda items, the current IRP regarding the .GCC application. In reaching its resolution to seek a stay of the current IRP and request further information from the GAC regarding its consensus advice, the Board carefully reviewed the facts underlying this IRP as well as the two prior IRP final declarations referenced by Claimant in its IRP filing that were issued after the NGPC’s 2013 acceptance of the GAC Advice regarding

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<sup>27</sup> Cooperative Engagement and Independent Review Processes Status Update (18 May 2021), Ex. R-22.

<sup>28</sup> The Claimant always had the option of unilaterally terminating the CEP and ending settlement discussions with ICANN, but chose not to do so.

<sup>29</sup> Ex. R-22.

<sup>30</sup> IRP Request, p. 4.

<sup>31</sup> *Id.*, p. 18.

the .GCC application. Specifically, in July 2015, an IRP panel in the *DCA v. ICANN* IRP ruled that ICANN’s acceptance of GAC consensus advice against a .AFRICA application that lacked a rationale was inconsistent with ICANN’s Articles and Bylaws.<sup>32</sup> After the *DCA* Panel issued its final declaration, the ICANN Board resolved to take several steps, including asking the GAC if “it wishes to refine that advice [on .AFRICA] and/or provide the Board with further information regarding that advice.”<sup>33</sup>

18. Then, in July 2017, an IRP panel in the *Amazon v. ICANN* IRP ruled that ICANN’s acceptance of GAC consensus advice against applications for .AMAZON that lacked a rationale was not consistent with ICANN’s Articles and Bylaws.<sup>34</sup> In addressing the final declaration of the *Amazon* Panel, the ICANN Board asked the GAC if it had “any information to provide to the Board as it relates to the . . . GAC’s advice that the Amazon applications should not proceed; or (ii) any other new or additional information to provide to the Board regarding the GAC’s advice that the Amazon applications should not proceed.”<sup>35</sup>

19. “ICANN has generally followed a practice of not taking any actions on applications that are the subject of a pending Accountability Mechanism out of deference to ICANN’s Accountability Mechanisms.”<sup>36</sup> But given the previous findings in the .AFRICA and .AMAZON IRPs and in light of the purposes of the IRP, the ICANN Board considered alternatives to the general practice of not taking action on applications that are the subject of pending Accountability Mechanisms during its September 2021 meeting.<sup>37</sup>

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<sup>32</sup> *DotConnectAfrica Trust v. ICANN*, Final Declaration ¶ 115 (9 July 2015), R-23.

<sup>33</sup> Approved Board Resolutions | Special Meeting of the ICANN Board (16 July 2015), Ex. R-24.

<sup>34</sup> *Amazon v. ICANN*, Final Declaration ¶ 116 (10 July 2017), Annex 16 to IRP Request.

<sup>35</sup> Approved Board Resolutions | Regular Meeting of the ICANN Board (29 October 2017), Ex. R-25.

<sup>36</sup> Approved Board Resolutions | Regular Meeting of the ICANN Board (12 September 2021), Ex. R-26.

<sup>37</sup> *Id.*

20. Although the NGPC and the Claimant were aware that the GAC’s rationale for its consensus advice was that stated in the GAC Early Warning notice regarding Claimant’s .GCC application,<sup>38</sup> the ICANN Board ultimately adopted a resolution, on 12 September 2021, authorizing ICANN to “seek a stay of the .GCC IRP and open an informal dialogue with the GAC regarding the rationale for the GAC consensus advice on the .GCC application.”<sup>39</sup> The Board explained its rationale for adopting this resolution as follows:

After careful review of the underlying facts, prior applicable IRP Panel Declarations, and the BAMC’s recommendation, the Board has concluded that, before proceeding further with the .GCC IRP, it could be beneficial to ask the GAC for any new or additional information that the GAC might choose to offer regarding its advice that the .GCC application should not proceed. The Board, therefore, authorizes the President and CEO, or his designee(s), to seek a stay of the .GCC IRP and open an informal dialogue with the GAC regarding the rationale for the GAC consensus advice on the .GCC application.<sup>40</sup>

21. Thereafter, ICANN’s President and Chief Executive Officer, Göran Marby, wrote to the GAC Chair to inform the GAC of the Board resolution and to open the informal dialogue with the GAC on this issue.<sup>41</sup>

22. Given this recent Board resolution, the fact that the resolution provides Claimant much of the relief it seeks in this IRP (i.e., asking the GAC for further information), and that this dialogue could significantly alter the landscape of this IRP or end up mooted the IRP, ICANN requested that Claimant agree to a stay of the IRP until after ICANN completes this process with the GAC. Claimant refused, choosing to litigate without allowing the GAC an opportunity to provide further information that could be helpful toward resolution of this matter, or at least parts of it. ICANN then requested that the Emergency Panelist address ICANN’s request for a stay,

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<sup>38</sup> Ex. R-12 (“the ICANN Board New gTLD Program Committee’s understanding that the GAC [...] based on the rationale contained in the Early Warning has reached a consensus to object.”).

<sup>39</sup> Ex. R-26.

<sup>40</sup> *Id.*

<sup>41</sup> Letter from G. Marby (ICANN) to M. Ismail (GAC) (9 November 2021), Ex. R-28.

but the Emergency Panelist chose not to do so because he believed it was beyond his remit from the ICDR.

23. On 25 January 2022, the GAC issued a letter to Mr. Marby stating that the GAC had reviewed “GAC discussions from 2013” and that the rationale for the GAC Advice was as follows (and as expressed in the GAC Early Warning):

- “The applied-for string (GCC) is an exact match of the known acronym for an Intergovernmental Organization (IGO), the Gulf Cooperation Council and as such, warrants special protection to its name and acronym.
- The application clearly targeted the GCC community without any support from the GCC, its six members or its community.”<sup>42</sup>

24. ICANN is now in the process of determining the next steps with regard to the GAC Advice, which could involve one or more additional interactions between ICANN and the GAC before the Board makes any further determination that almost certainly will impact the scope of this IRP.

#### **STANDARD OF REVIEW AND REQUESTED RELIEF**

25. Article 27(1) of the ICDR Rules, which supplement the IRP Interim Supplementary Procedures and ICANN’s Bylaws, provides that “[a]t the request of any party, the arbitral tribunal may order or award any interim or conservatory measures it deems necessary.”<sup>43</sup> Pursuant to Article 27(1) of the ICDR Rules, ICANN requests that the IRP Panel award ICANN interim relief in the form of a six-month stay, until 11 August 2022, pending ICANN’s dialogue with the GAC.

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<sup>42</sup> Letter from M. Ismail (GAC) to G. Marby (ICANN) (25 January 2022), Ex. R-39.

<sup>43</sup> Internal Dispute Resolution Procedures (Including Mediation and Arbitration Rules) (1 March 2021), Arbitration Rules, Art. 27(1), Ex. R-40.

## ARGUMENT

### **I. A STAY OF THIS IRP IS “NECESSARY” IN THAT IT WOULD SERVE THE PURPOSES OF THE IRP, WILL AID IN THE ULTIMATE RESOLUTION OF THIS IRP, AND IS THE MOST EFFICIENT WAY TO PROCEED.**

26. A stay of this IRP is “necessary” to accomplish one of the core purposes of the IRP, which is to reduce disputes, by allowing the time needed for ICANN to complete its dialogue with the GAC, which is directly in line with the relief sought by Claimant in this IRP. A stay is further necessary because ICANN’s dialogue with the GAC may obviate the need for this IRP or, if it does not, the dialogue will almost certainly change the facts, claims and arguments in this action, making a stay of this IRP during the pendency of the dialogue the most efficient way to proceed.

27. As stated above, Claimant’s core allegations in this IRP relate to the NGPC’s acceptance of the GAC Advice and the decision to halt the processing of Claimant’s application. Specifically, Claimant’s IRP Request challenges, among other things, ICANN’s decisions: (i) “to accept GAC advice to reject the .GCC application, despite lack of any rationale provided by GAC for its advice”; (ii) “to refuse to request rationale from the GAC, investigate the matter or otherwise consider the public interest”; and (iii) “to refuse to provide any rationale for the NGPC decision to accept GAC advice[.]”<sup>44</sup> Claimant also challenges ICANN’s alleged failure to follow the precedent set by the .AFRICA and .AMAZON IRP Panel Final Declarations.<sup>45</sup>

28. Here, the ICANN Board is taking proactive steps at the beginning of this IRP with regard to the GAC Advice as well as Claimant’s allegations regarding ICANN’s acceptance of that advice. The ICANN Board has authorized staff to engage in a dialogue with the GAC

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<sup>44</sup> IRP Request, p. 18.

<sup>45</sup> *Id.*, p. 19.

regarding its rationale for the GAC Advice on the .GCC application,<sup>46</sup> just as the Board did in response to the final rulings in the .AFRICA and .AMAZON IRPs. This is an effort to potentially address Claimant’s stated concerns, to be “guide[d] and inform[ed]” by applicable IRP precedent, and to provide additional critical information to the parties and the Panel that will assist in clarifying, or perhaps obviating, the claims and defenses in this IRP.

29. And, as explained earlier, this is fully consistent with one of the purposes of the IRP, which is to reduce disputes “by creating precedent to guide and inform the Board, Officers . . . , Staff members, Supporting Organizations, Advisory Committees, and the global Internet community in connection with policy development and implementation.”<sup>47</sup> Thus, a stay of this IRP permits ICANN time to respond to and address the allegations in this IRP, which furthers the purposes of the IRP.

30. A stay is also the most efficient way to proceed given the evolving factual landscape of this IRP. The purpose of ICANN’s dialogue is to “ask the GAC for any new or additional information that the GAC might choose to offer regarding its advice that the .GCC application should not proceed.”<sup>48</sup> Thus, Claimant’s claims in this IRP may be resolved by the dialogue ICANN is currently engaged in with the GAC and/or by any potential further action ICANN takes as a result of that dialogue. In other words, once ICANN concludes its process, there may be no need for an IRP whatsoever, as Claimant may be satisfied with the results of that process.

31. If, however, the GAC dialogue does not moot the IRP, it is likely to materially affect the IRP, including Claimant’s allegations and ICANN’s response to those allegations,

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<sup>46</sup> Ex. R-26.

<sup>47</sup> Bylaws, Art. 4, Section 4.3(a)(vi).

<sup>48</sup> Ex. R-26.

making a stay the most efficient way to proceed in this IRP. For instance, if ICANN's dialogue with the GAC does not resolve Claimant's concerns, Claimant may seek to amend or modify its allegations and arguments as a result of the dialogue. Likewise, the focus of discovery and information exchange may also shift. Similarly, if this IRP proceeds after completion of the GAC dialogue, ICANN may wish to provide the Panel with further relevant facts and information that could have a significant impact on this IRP. Thus, proceeding with this IRP – and more written submissions, discovery, and hearing planning – before completion of the GAC dialogue could increase litigation costs and create inefficiencies in that all of that work may need to be re-done or, at the least, adjusted. These types of inefficiencies are supposed to be avoided in IRPs, when possible. Indeed, this concept is expressed in the Interim Supplementary

#### Procedures:

It is in the best interests of ICANN and of the ICANN community for IRP matters to be resolved expeditiously and at a reasonably low cost while ensuring fundamental fairness and due process consistent with the PURPOSES OF THE IRP. The IRP PANEL shall consider accessibility, fairness, and efficiency (both as to time and cost) in its conduct of the IRP <sup>49</sup>

32. Claimant will argue that this IRP relates to ICANN's past conduct and thus is not remediated by ICANN's present decision to open a dialogue with the GAC. This argument, however, contradicts Claimant's express claims and requests in this IRP that ICANN do just that. This argument also ignores the fact that, irrespective of the claims in this IRP, the Board has an independent duty to be guided by the Articles and Bylaws, as well as applicable IRP precedent, which the Board has clearly attempted to do with its September 2021 resolution. While Claimant has seen fit to litigate every challenge to its application, ICANN is attempting to engage, which could resolve this dispute or will at least bring the factual basis into better focus. Allowing this

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<sup>49</sup> Interim Supplementary Procedures for Internet Corporation for Assigned Names and Numbers (ICANN) Independent Review Process (IRP) (25 October 2018), Rule 5, Ex. R-41.

IRP to proceed based only on past conduct, when ICANN is in the process of addressing Claimant's main complaints, would be inconsistent with the purpose of the IRP and hinder the ICANN Board's independent decision making, as guided by applicable IRP precedent, not to mention increasing the parties' costs in resolving this IRP.

### CONCLUSION

33. In light of the Board's recent resolution and the ongoing discussions between the ICANN Board and the GAC, ICANN requests a six-month stay of this IRP from the filing of this Stay Application.

Respectfully submitted,

JONES DAY

Dated: 10 February 2022

By: /s/ Eric P. Enson  
Eric P. Enson

Counsel for Respondent ICANN