

INDEPENDENT REVIEW PROCESS  
INTERNATIONAL CENTRE FOR DISPUTE RESOLUTION

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

**DECLARATION OF ERIC P. ENSON IN SUPPORT OF  
ICANN’S MOTION TO DISMISS SECOND AMENDED IRP REQUEST**

I, Eric P. Enson, declare as follows:

1. I am a partner of Jones Day, counsel to the Internet Corporation for Assigned Names and Numbers (“ICANN”), Respondent in this action. I have personal knowledge of the matters set forth herein and am competent to testify as to those matters. I make this declaration in support of ICANN’s Motion to Dismiss the Second Amended Request for Independent Review Process (“Second Amended IRP Request”) submitted by Claimant GCCIX, W.L.L. (“GCCIX”).

2. During the course of this IRP, ICANN learned that GCCIX’s Commercial Registration (“CR”) was “Deleted by law” by the Bahraini Ministry of Industry and Commerce (“Bahraini MOIC”), on 28 August 2018. At the same time, ICANN also learned that, in approximately 2016, GCCIX underwent significant corporate changes including, but not limited to, changes in its officers and directors, changes in its shareholders with more than 15% ownership interest, changes to its authorized signatories, as well as abandonment of its website/domain name, gccix.net.

3. Accordingly, in this IRP, ICANN requested from GCCIX “[a]ll documents and communications relating to Claimant’s formation as a W.L.L., including but not limited to any Articles of Association, any documents reflecting Claimant’s mission or purpose, and documents sufficient to show when Claimant was formed” through the normal course of discovery on 17 August 2022 (“Request No. 17”). GCCIX objected to Request No. 17 and refused to produce any responsive documents. Attached hereto as Exhibit A is a true and correct copy of ICANN’s Requests for Production of Documents and GCCIX’s responses thereto.

4. As part of the meet and confer process, the parties agreed to a narrowed-version of Request No. 17 and, on 21 October 2022, GCCIX agreed “to produce documents sufficient to show the status of GCCIX’s commercial registration in Bahrain or elsewhere.” Attached hereto as Exhibit B is a true and correct copy of the parties’ correspondence regarding Request No. 17.

5. GCCIX, however, failed to produce any documents pursuant to the 21 October 2022 agreement. Thus, I sent a letter via email to GCCIX’s counsel, on 13 January 2023, stating ICANN’s position that GCCIX’s defunct CR prohibits it from maintaining this IRP and that it was ICANN’s understanding that if an entity has been “Deleted by law” in Bahrain for more than three years, as GCCIX had been, that entity cannot be reinstated under Bahraini law. In addition, my 13 January letter requested that, to the extent there exists evidence that GCCIX remains in good standing in Bahrain, GCCIX produce such information to ICANN. Attached hereto as Exhibit C is a true and correct copy of my 13 January 2023 letter to GCCIX’s counsel.

6. On 30 January 2023, GCCIX’s counsel forwarded to me a letter received from a Bahraini lawyer, Abdulla Sayyar, regarding GCCIX’s “Deleted by law” status and claiming that GCCIX’s CR “status will be changed to active in 45 days.” Attached hereto as Exhibit D is a true and correct copy of Mr. Sayyar’s letter.

7. In advance of a 7 February 2023 status conference with the Panel, I provided the Panel with ICANN’s 13 January letter and Mr. Sayyar’s letter and requested that the parties and Panel discuss GCCIX’s corporate status. During the status conference, the Panel instructed the

parties to continue to discuss the issue and raise the issue with the Panel if needed. Attached hereto as Exhibit E is a true and correct copy of my 6 February 2023 email to the Panel.

8. Over the course of the next few months, I spoke with GCCIX's counsel on at least two occasions in which I was told that Mr. Sayyar was continuing to work on changing GCCIX's corporate status to active, although ICANN never saw any indication that this actually occurred.

9. In connection with the parties' negotiation of a protective order for use in discovery in this IRP, GCCIX's counsel requested that Fahad Al Shirawi be allowed to see all materials produced in the IRP because GCCIX does not have in-house counsel and Mr. Shirawi is the "sole employee of GCCIX." Attached hereto as Exhibit F is a true and correct copy of my correspondence with GCCIX's counsel on this topic. Attached hereto as Exhibit G is a true and correct copy of the Protective Order in this matter that identifies Mr. Shirawi in Paragraph 8.c.

10. After receiving no further information from GCCIX and seeing no change in the status of GCCIX's CR, ICANN retained Fatima Al Ali, a Bahraini lawyer, to provide an independent legal opinion on the import and impact of GCCIX's "Deleted by law" status. As part of this engagement, Ms. Al Ali prepared a letter providing her legal opinion on GCCIX's CR being "Deleted by law" since August 2018 ("Opinion Letter"), which I sent to GCCIX's counsel on 28 August 2023. The primary opinions expressed by Ms. Al Ali were that a CR is required to engage in commercial activities in Bahrain and that a CR that has been "Deleted by law" for more than three years cannot be revived. Attached hereto as Exhibit H is a true and correct copy of Ms. Al Ali's Opinion Letter. Attached hereto as Exhibit I is a true and correct copy of my 28 August 2023 email to GCCIX's counsel.

11. GCCIX did not respond to my 28 August 2023 communication nor has GCCIX addressed Ms. Al Ali's Opinion Letter in any way; and ICANN has seen no change in GCCIX's "Deleted by law" status.

12. Therefore, in preparation for filing a motion to dismiss this IRP, I emailed GCCIX's counsel on 29 January 2024 to: (1) provide GCCIX and its counsel with notice that

ICANN planned on filing a Motion to Dismiss in conjunction with ICANN's Response to Claimant's Second Amended IRP Request on 5 February 2024, based on GCCIX's "Deleted by law" status; (2) request that GCCIX provide "any new information regarding GCCIX's CR;" and (3) offer to meet and confer with GCCIX's counsel on a Motion to Dismiss briefing schedule. GCCIX's counsel did not respond. Attached hereto as Exhibit J is a true and correct copy of my 29 January 2024 email to GCCIX's counsel.

I swear under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this Fifth day of February 2024 in Los Angeles, California.

A handwritten signature in black ink, appearing to read "Eric P. Enson", written over a horizontal line.

Eric P. Enson