

**IN THE MATTER OF AN INDEPENDENT REVIEW PROCESS BEFORE THE
INTERNATIONAL CENTRE FOR DISPUTE RESOLUTION**

FEGISTRY, LLC, MINDS + MACHINES GROUP,
LTD., RADIX DOMAIN SOLUTIONS PTE. LTD.,
and DOMAIN VENTURE PARTNERS PCC
LIMITED, **ICDR Case No. 01-19-0004-0808**

Claimants,

vs.

INTERNET CORPORATION FOR ASSIGNED
NAMES AND NUMBERS,

Respondent.

**CLAIMANTS' OPPOSITION TO
ICANN'S MOTION FOR SUMMARY ADJUDICATION**

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Claimants FEGISTRY, LLC, MINDS + MACHINES GROUP, LTD., RADIX DOMAIN SOLUTIONS PTE. LTD., and DOMAIN VENTURE PARTNERS PCC LIMITED (“Claimants”) hereby respond to and oppose ICANN’S MOTION FOR SUMMARY ADJUDICATION OF CERTAIN CLAIMS THAT ARE BARRED BY THE STATUTE OF LIMITATIONS (“Motion”) submitted by the Respondent, Internet Corporation for Assign Names and Numbers (“ICANN”).

ARGUMENT

I. There Is No Authority Allowing an IRP Summary Adjudication Procedure

1. There is no provision for summary adjudication in the ICANN Bylaws, IRP Supplementary Rules, or the 2014 ICDR International Arbitration Rules in effect for this proceeding. In its motion, ICANN provides no authority for such a motion, nor any standard or applicable law by which the motion should be decided.

2. Both the Bylaws and the Supplementary Rules provide for Summary Dismissal, based only on lack of standing, a prior IRP Declaration which bars the claim, or an allegation that a pleading is frivolous or vexatious.¹ ICANN does not allege any of those things in this case, however. ICANN unilaterally drafted and imposed its Bylaws and Supplementary Rules on Claimants. As those rules provide for Summary Dismissal under very limited circumstances, but not for summary adjudication under any circumstances, it is clear that the IRP is not intended to contain a summary judgment procedure.

¹ See Bylaws, Art. 4.3(o)(i); Supp. Rules, Sec. 6.

3. Moreover, the AAA had several other sets of rules that did incorporate a summary disposition procedure at that time, but still omitted such procedure from the 2014 ICDR Rules. For example, Rule 33 the Commercial Rules of Arbitration (Including Procedures for Large, Complex Commercial Disputes), effective 2013, specifically provides for early Dispositive Motions – as do at least three other sets of AAA commercial arbitration rules in effect as of the effective date of the 2014 ICDR Rules.² Clearly, AAA’s omission of such a rule in the ICDR Rules was not by mistake, and so ICANN cannot read such a rule into the IRP.

4. ICANN also presumably was aware of all of those rules when it drafted and adopted the IRP Supplementary Rules, and yet did not include any provision for early dispositive motions. Indeed, one of the stated guiding principles of the drafters of the Supplementary Rules was to “take no action that would materially expand any part of the Supplementary Procedures that the IOT has not clearly agreed upon.” That certainly, further indicates ICANN’s intent not to include any summary disposition procedure other than the Summary Dismissal provision that was included.

5. Thus, unsurprisingly, ICANN has never before attempted to file such a motion in any previous IRP case. Because there is neither authority nor precedent for ICANN’s motion, it must be denied.

II. ICANN Suggests No Standard of Review for its Motion

6. ICANN fails to suggest any standard by which its motion should be considered, nor any authority which might be applicable other than the ICANN Bylaws, Supplementary Rules and 2014 ICDR Rules. Claimants are domiciled in Washington, Gibraltar, and India. Claimants have not consented or agreed to the applicability of any body of law in this case, other than the ICANN Bylaws and by reference the IRP Supplementary Rules and the ICDR Rules.

7. None of those authorities provide for a summary adjudication procedure, and thus they do not provide any standard by which such a motion should be considered. As both Claimants and the Panel are left in the dark as to ICANN's position about the applicable law, Claimants are unable to fairly consider and respond to ICANN's motion. So, the motion must be denied.

III. ICANN Fails to Prove that Any Claims Are Time-Barred

8. ICANN requests that the Panel dismiss claims that Claimants have not made, and otherwise generally seeks to obfuscate Claimants' clearly stated claims. In their Request for Independent Review, Claimants provided a detailed factual and procedural narrative – with many supporting evidentiary Annexes – all of which is incorporated and relied upon herein by reference.³ Claimants then succinctly stated their four claims for independent review as follows:⁴

A. Claimants seek review whether ICANN had undue influence over the EIU with respect to its CPE decisions, and over FTI with respect to the CPE Process Review.

a. ICANN's and EIU's Communications Are Critical, But Have Been Kept Secret

b. DotRegistry IRP and FTI's report reveals a lack of independence of EIU

c. ICANN Materially Misled Claimants and the Despegar IRP Panel

B. Claimants seek review whether they were discriminated against, as ICANN reviewed other CPE results but not .HOTEL, even per RFRs after Dot Registry.

C. Claimants seek review of ICANN's "Portal Configuration" investigation and refusal to penalize HTLD's willful accessing of Claimant's confidential, trade secret information.

D. Claimants seek review of ICANN's decision to approve sale of the .HOTEL Community-based Applicant to a domain registry conglomerate, without requiring the new Applicant to pass CPE.

² E.g., Annex 1, p.23; *see also, e.g.*, Rule 34 of the AAA Construction Rules (effective 2013), Rule 27 of the AAA Employment Rules (effective 2009), Rule 33 of the AAA Consumer Rules (effective 2014).

³ Annex 2, Claimants' Request for Independent Review, p.4-11.

⁴ *Id.*, p.2.

9. But at the outset of its Motion, ICANN requests that the Panel “dismiss any claims related to” four made-up claims. Each of these ‘claims’ are an incomplete and misleading statement of Claimant’s actual requests for independent review, as stated clearly in their IRP Request. Claimants address each of ICANN’s contentions, in turn.

A. Claimants Request Review of Whether CPE Should Evaluate Afilias

10. First, ICANN requests that the Panel “dismiss any claims related to (i) the acquisition of HTLD by Afilias.”⁵ However, in their fourth claim for review, Claimants did not and do not generally challenge the “acquisition of HTLD by Afilias” as ICANN says. Instead, as actually stated in their IRP Request (emphasis added): *“Claimants seek review of ICANN’s decision to approve sale of the .HOTEL Community-based Applicant to a domain registry conglomerate, without requiring the new Applicant to pass CPE.”*

11. In other words, and in context of Claimants’ first three IRP claims for review, the Claimants specifically challenge that ICANN has not required a new Community Priority Evaluation as to Afilias’ .Hotel application, as part of or since ICANN’s acceptance of the CPE Review and/or the *Dot Registry* Final Declaration, or after revelation of HTLD’s theft of Claimants’ and other competitors’ highly confidential trade secrets. Those investigations each revealed substantial inconsistencies and misconduct in ICANN’s handling of the CPE processes for HTLD’s .Hotel application and other applications for other gTLD strings, the CPE Process Review, and the HTLD theft investigation -- as alleged throughout Claimants’ IRP Request.

12. Moreover, meanwhile the HTLD application apparently had been sold to Afilias, which had not been evaluated by the EIU or ICANN as required by the Applicant Guidebook. Then or now, Afilias could not make any reasonable claim to the concocted “hotel community” that it

⁵ Mot., p.9.

still must purport to represent. ICANN blithely notes that “applications, not applicants, are reviewed by the CPE Provider”.⁶ However, the CPE Guidelines set forth in the Applicant Guidebook focus in large part on the identity of the applicant, and its purported ties to the community it seeks to represent.⁷ The .Hotel application was pending then and is pending now. It could have, should have, and still can undergo a CPE as to the current applicant Afilias,⁸ in light of the findings of the CPE Review Process, the *Dot Registry* Final Declaration, and the revelation of HTLD’s illegal behavior.

13. ICANN’s failure to require CPE is ongoing, and violates its Bylaws as alleged in the IRP Request. The applicant Afilias has not passed CPE as required by the Applicant Guidebook, and ICANN has never found that either Afilias or HTLD’s Community Priority is in the public interest, as required in Bylaws.

14. ICANN acknowledges that Claimants raised such issues with ICANN within Reconsideration Request 16-11.⁹ Indeed, Claimants’ RFR summed up the request:¹⁰

ICANN is requested to refrain from executing the registry agreement with HTLD, and to provide full transparency about all communications between ICANN, the ICANN Board, HTLD, the EIU and third parties (including but not limited to individuals and entities supporting HTLD's application) regarding HTLD's application for .hotel. ... Requesters request that the ICANN Board takes the necessary steps to ensure a meaningful review of the CPE regarding .hotel, ensuring consistency of approach with its handling of the Dot Registry case.

15. ICANN admits that this IRP was timely filed to seek independent review of at least substantial parts of ICANN’s refusal of RFR 16-11.¹¹ ICANN further admits that this IRP was

⁶ Mot., #15.

⁷ Mot., n.1, Exhibit. 1.

⁸ Claimants note that Afilias has since been acquired by an even larger industry conglomerate, Donuts, which has recently renamed itself as Identity Digital. Since the pleadings refer to Afilias, Claimant maintains that name here.

⁹ Mot., #16.

¹⁰ Annex 3, p.20 (Request for Reconsideration 16-11).

¹¹ *Id.*, #10(ii) (“ICANN has not argued that the portions of Claimants’ Reconsideration Request 16-11 that specifically challenge the Board resolutions regarding the Portal Configuration, as they relate to .HOTEL, are time-barred.”).

timely filed as to review of Claimants’ “claim regarding ICANN’s acceptance of the CPE Process Review in 2016.”¹²

16. Claimants’ fourth claim specifically (and only) seeks review of ICANN’s failure to require a new CPE of Afiliias’ so-called “Community Application” during or after the CPE Process Review and in light of the *Dot Registry* Final Declaration and the revelations and implications of HTLD’s trade secret theft. Thus, that claim is not time-barred.

17. To the extent it is relevant, the Emergency Panelist’s opinion is consistent, as it states only that “an attempt by Claimants to bring an outright challenge ... *concerning the transfer of ownership shares* from HTLD to Afiliias is time-barred.” Mot., #17 (emphasis added). As stated, Claimants do not challenge the acquisition itself, but rather ICANN’ failure to act since then, in light of critical developments that occurred afterwards. The *Dot Registry* declaration, CPE Process Review Reports, and reveal of HTLD trade secret theft were all later developments, addressed, *inter alia*, in RFRs 16-11 and 18-6.

18. By the time those RFRs were both denied in January 2019, Claimants had already requested Cooperative Engagement with ICANN as to all issues raised therein. That CEP tolled the time for Claimants to file an IRP request -- until Claimants’ IRP Request was timely filed in November 2019.

B. Claimants Timely Stated Claims for Review of Both RFR 16-11 and 18-6

19. ICANN requests the Panel to dismiss two more very broad claims that Claimants have not made, namely:

any claims related to ... (ii) [t]he decision of the *Despegar* IRP ...; (iii) [t]he decision in the *Dot Registry* IRP, including any claim that ICANN should have somehow “revisited” the outcome of the *Despegar* IRP in view of the final declaration in the *Dot Registry* IRP.

¹² *Id.*, #10(i) (“ICANN has not argued that the challenges in Claimants’ Reconsideration Request 18-6 to the CPE Process Review, and the Board’s acceptance thereof, are time-barred in this IRP.”).

20. First, if ICANN truly thought Claimants were trying to ‘relitigate’ those cases, then ICANN would have brought a motion for Summary Dismissal. As stated above, the Bylaws and IRP Supplemental Rules specifically contemplate such a motion in cases where a prior IRP Declaration bars a claim. But ICANN does not make any such argument.

21. Instead, ICANN simply tries to confuse the Panel by claiming that Claimants claim things that Claimants do not claim. Rather, Claimants clearly stated two different, specific claims for review with some relation to those prior IRP cases. Claimants first two claims for independent review are stated as follows:

A. *Claimants seek review whether ICANN had undue influence over the EIU with respect to its CPE decisions, and over FTI with respect to the CPE Process Review.*

1. *ICANN’s and EIU’s Communications Are Critical, But Have Been Kept Secret*
2. *DotRegistry IRP and FTI’s report reveals a lack of independence of EIU*
3. *ICANN Materially Misled Claimants and the Despegar IRP Panel*

B. *Claimants seek review whether they were discriminated against, as ICANN reviewed other CPE results but not .HOTEL, even per RFRs after Dot Registry.*

22. Claimants state three subparts to their first claim for review, all of which were addressed in RFR 16-11 and/or RFR 18-6. None of those claims could have arisen until after both the *Dot Registry* decision and the completion of the CPE Process Review. As Claimants have specifically alleged in their IRP Request,¹³ ICANN materially misled Claimants, the community, and both the *Despegar* and *Dot Registry* panels, specifically as to the existence of critical documents proving ICANN’s undue influence over purportedly “independent” CPE decisions of the EIU. That existence of such evidence was not ultimately disclosed until the *Dot Registry*

¹³ Annex 2, p. 18-21.

Final Declaration and publication of the CPE Review Reports, only after ICANN had lied to the *Dot Registry* panel about the very existence of such evidence.

23. Claimants simply could not have known about that evidence until after those publications. Claimants timely requested that info via RFR 16-11, but ICANN refused to provide it and still refuses to provide it. It was not until ICANN denied the RFR that Claimants became aware that ICANN would not provide the evidence -- unless and until an IRP panel (again) orders them to produce it. In this IRP, Claimants challenge ICANN's denial of those RFRs, including ICANN's refusal to produce evidence. Those claims are not time-barred.

24. Again, ICANN has admitted that it: "has not argued that the challenges in Claimants' Reconsideration Request 18-6 to the CPE Process Review, and the Board's acceptance thereof, are time-barred."¹⁴ ICANN further acknowledges that, at that time, Reconsideration Request 16-11 also remained pending, and was not denied until 2019 in conjunction with and on the same day as ICANN's denial of RFR 18-6.¹⁵

25. ICANN fails to acknowledge that, in 2017, ICANN itself specifically and unilaterally decided to suspend its consideration of RFR 16-11, while it conducted the CPE Process Review.¹⁶ ICANN acknowledged then that issues in that RFR, specifically with respect to "issues that were identified in" the *Dot Registry* Final Declaration, were intertwined with the intended CPE Process Review. As ICANN explained then:¹⁷

At various times in the implementation of the New gTLD Program, the ICANN Board has considered aspects of the Community Priority Evaluation (CPE) process. Recently, we discussed certain concerns that some applicants have raised with the CPE process, including issues that were identified in the Final Declaration from the Independent Review Process (IRP) proceeding initiated by

¹⁴ Mot., #10(i).

¹⁵ Mot., #8.

¹⁶ Mot., #34, n.39.

¹⁷ Annex 4 (<https://www.icann.org/en/system/files/correspondence/disspain-letter-review-new-gtld-cpe-process-26apr17-en.pdf>).

Dot Registry, LLC. The Board decided it would like to have some additional information related to how ICANN interacts with the CPE provider, and in particular with respect to the CPE provider's CPE reports. On 17 September 2016, we asked that the President and CEO, or his designee(s), undertake a review of the process by which ICANN has interacted with the CPE provider. (Resolution 2016.09.17.01)

Further, during our 18 October 2016 meeting, the Board Governance Committee (BGC) discussed potential next steps regarding the review of pending Reconsideration Requests pursuant to which some applicants are seeking reconsideration of CPE results. Among other things, the BGC noted that certain complainants have requested access to the documents that the CPE panels used to form their decisions and, in particular, the independent research that the panels conducted. The BGC decided to request from the CPE provider the materials and research relied upon by the CPE panels in making determinations with respect to certain pending CPEs. This will help inform the BGC's determinations regarding certain recommendations or pending Reconsideration Requests related to CPE. This material is currently being collected as part of the President and CEO's review and will be forwarded to the BGC in due course.

26. ICANN later further acknowledged that issues in RFR 16-11 were intertwined with the CPE Process Review, in its "Roadmap for Consideration of Pending Reconsideration Requests Relating to CPE That Were Placed On Hold Pending Completion of the CPE Process Review."¹⁸

Therein, ICANN stated that Step 1 in its Roadmap would be to:

Offer the requestors of the pending Reconsideration Requests the opportunity to submit additional information relating to their requests, provided that the submission is limited to any new information/argument based upon the CPE Process Review Reports.

27. ICANN acknowledges that it did not deny RFR 16-11 until January 2019, and at that time – for the first time -- concluded that "Requestors' claim regarding the *Despegar* IRP is time-barred."¹⁹ ICANN notes that the *Despegar* decision was published in March 2016, and RFR 16-11 was submitted in August 2016.

¹⁸ Annex 5 (<https://www.icann.org/en/system/files/files/roadmap-reconsideration-requests-cpe-15feb18-en.pdf>).

¹⁹ Mot., #19, n.25.

28. However, Claimants’ challenge to the *Despegar* decision (to the extent there is any such challenge) is specifically and only based upon facts which were not and could not have been known to Claimants until after ICANN’s acceptance of the *Dot Registry* decision in August 2016, until after ICANN’s acceptance of the CPE Reports in March 2018, and indeed until after RFR 16-11 and 18-6 were ultimately denied by ICANN in January 2019. During that time period, Claimants repeatedly notified ICANN of the inter-relationship between the *Despegar* and *Dot Registry* decisions, the Claimants’ pending RFRs 16-11 and 18-6, and the CPE Process Review. Indeed, ICANN specifically acknowledged this in the above-quoted letter of April 2017 and Roadmap of February 2018.

29. RFR 16-11 was filed on August 25, 2016.²⁰ That filing was timely as to all issues raised therein, because the *Dot Registry* decision was accepted by ICANN on August 9, 2016. That RFR focuses upon the inconsistency between the *Despegar* and *Dot Registry* decisions, the existence and importance of which could not possibly have been realized until after the latter case was decided and accepted by ICANN.

30. Then later the RFR 16-11 was put ‘on hold’ by ICANN for two years, and not decided until January 2019, along with RFR 18-6. Claimants then timely sought Cooperative Engagement with ICANN as to ICANN’s refusal of both RFRs – in their entirety. The CEP tolled Claimants’ time to file a Request for IRP until that Request was timely filed in November 2019. Therefore, no claims made within Claimants’ RFR 16-11 are time-barred.

31. Again, the Emergency Panelist opinion is consistent, as it says: “If Claimants are intending to bring an outright challenge to the Board’s acceptance of the *Despegar* IRP Declaration now, the challenge would be untimely.”²¹ Claimants make no “outright challenge”

²⁰ Annex 3, p.22.

²¹ Mot., #24.

to the Board’s acceptance of the *Despegar* decision when that decision was made. Instead, Claimants argue in this IRP – as they did in their RFR 16-11²² -- that in light of the *Dot Registry* and CPE Review disclosures, HTLD theft investigation, and the Afilias acquisition of HTLD, the Board should have taken additional steps to re-evaluate the .Hotel CPE to ensure that Community Priority for that TLD is in the public interest. ICANN has still never made any such finding, which is required by its Bylaws and the Applicant Guidebook.

C. Claimants Are Entitled to Ombudsman Review of Both RFR 16-11 and 18-6

32. ICANN moves to dismiss “any claims related to ... (iv) Any challenges to the lack of Ombudsman review on the two Reconsideration Requests (16-11 and 18-6) that Claimants filed concerning these matters.”²³ ICANN argues cryptically that the request for Ombudsman review is time-barred, and also is contrary to Bylaws. Claimants address both arguments, in turn.

1. The Two RFRs Are Intertwined and Were Considered at the Same Time

33. ICANN unilaterally ceased consideration of RFR 16-11 for about two years,²⁴ and then considered it at the same time as, and in conjunction with, RFR 18-6.²⁵ Indeed, ICANN decided them both on the same day in January 2019. The requests for reconsideration in both RFR filings are intertwined, each seeking much of the same information from ICANN, which was only disclosed and then found dispositive in the *Dot Registry* decision, and was further described in the CPE Process Review Reports. RFR 18-6 expressly references RFR 16-11 throughout the

²² ICANN falsely states that “Claimants never asserted claims regarding the *Dot Registry* final declaration prior to bringing their IRP Request.” Mot., #31. ICANN appears to forget the substance of RFR 16-11. *See*, Annex 3.

²³ ICANN falsely states that “Claimants ask the Panel to appoint a ‘different’ ombudsman to conduct that review.” Mot., #33. In fact, Claimants asked the Emergency Panelist, and continue to ask this Panel, for an order “specifically requiring ICANN to ... appoint an ombudsman ... as required by the Bylaws.” Annex 2, p.12.

²⁴ *See supra*, Annexes 4, 5.

²⁵ Annex 6 (Request for Reconsideration 18-6).

document. Therefore, to the extent RFR 18-6 is required to have independent Ombudsman review, Claimants aver that RFR 16-11 should have the same review.

2. ICANN Was Bound to Provide Review Without Anyone Demanding It

34. The Bylaws in effect since 2018 are unequivocal about the right of Reconsideration requesters to have their request independently reviewed by the Ombudsman, before consideration by the BAMC.²⁶

For all Reconsideration Requests that are not summarily dismissed ... the Reconsideration Request shall be sent to the Ombudsman, who shall promptly proceed to review and consider the Reconsideration Request.

That Bylaw further provides that the Ombudsman may recuse, but only in limited circumstances:

(iii) For those Reconsideration Requests involving matters for which the Ombudsman has, in advance of the filing of the Reconsideration Request, taken a position while performing his or her role as the Ombudsman pursuant to Article 5 of these Bylaws, or involving the Ombudsman's conduct in some way, the Ombudsman shall recuse....

35. However, in his notice of recusal as to Claimants' RFR 18-6, the Ombudsman provided no reason whatsoever for his recusal, stating simply "I am recusing myself from consideration of Request 18-6."²⁷ In fact, as set forth in Claimants' Request for Interim Measures of Protection, the Ombudsman recused himself from every single RFR involving the new gTLD Program, all without any explanation.

36. Thus, ICANN and the Ombudsman systemically have denied any independent review of any RFR involving new gTLDs, despite the clear requirement of the Bylaws. That leaves only the BAMC 'reconsidering' its own decisions, as the BAMC was delegated to make all of the underlying decisions for the Board relating to the new gTLD Program. Clearly, ICANN and its

²⁶ Bylaws, Art. 4.2(1).

²⁷ Annex 7 (Ombudsman Notice of Recusal).

community intended for there to be some other check in the RFR process, and enshrined that in the Bylaws. But ICANN and its Ombudsman have entirely refused to provide it.

37. Claimants maintain that their claim for Ombudsman review is not time-barred, as they have timely filed this IRP after both RFR 16-11 and RFR 18-6 were denied in January 2019. Until that time, it was ICANN's obligation to provide the Ombudsman review without request from Claimants or anyone else. Until that time, Claimants could not have known if the BAMC might have engaged another ICANN staff member, or another independent expert to review the RFRs, as the Bylaws provide for ICANN to do.²⁸ Claimants could not have known what process the BAMC would follow, or what evidence and argument they would rely on, until their decision was made public.

38. ICANN argues that Claimants should have been aware of the denial of Ombudsman review via the publication of the Roadmap. However, ICANN provides no evidence this Roadmap was communicated to Claimants. And more importantly, ICANN cannot alter the Bylaws to eliminate Ombudsman review, merely by omitting that step from its Roadmap. Moreover, Claimants should not have had an obligation to file a separate and independent IRP – at significant legal expense and incurring hefty ICDR filing fees – merely to demand Ombudsman review, while its two RFRs remained pending.

39. It was and still is ICANN's obligation to provide that independent Ombudsman review, per the terms of its Bylaws. Also, and at minimum, it is ICANN's obligation to explain why its appointed Ombudsman recused himself from 100% of the cases arising out of the New gTLD Program – thereby uniformly denying an important and potentially dispositive procedural step guaranteed by the ICANN Bylaws.

²⁸ Bylaws, Art. 4.2(m), 4.2(o).

IV. ICANN's Motion is Premature Because Discovery Is Incomplete

40. Even if any summary judgment procedure were defined by any applicable authority, which it is not, it would be premature now because discovery is not yet complete in this case.

ICANN only completed its initial document production one week ago, on July 15. That production was 24 days late, as the Panel's Procedural Order No. 8 specifically required ICANN to "produce all documents it has agreed to produce" no later than June 21.

41. Moreover, with that belated production, ICANN only purports to respond to 12 of Claimants' document requests. Still, ICANN dumped nearly 3000 pages of documents on Claimants' counsel late last Friday, along with a six-page "list of links" to likely thousands more pages of documents. Once those documents are reviewed, Claimant is likely to have follow-up requests to ICANN for additional documents, and to revisit some or all of Claimant's outstanding 19 document requests to which ICANN has refused to respond. This is specifically contemplated in the Panel's Procedural Order No. 8.

42. Therefore, ICANN's document production is not complete. Once it is complete, then it is possible that the Panel may need to resolve any outstanding dispute at that time. Until such time as document production and review is complete, Claimants are not in position to fully or fairly evaluate and respond completely to ICANN's unauthorized, unprecedented and premature motion for summary adjudication. For this reason, among others as aforesaid, ICANN's motion must be denied.

Respectfully submitted July 22, 2022

/Mike Rodenbaugh/

Mike Rodenbaugh

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