

Preliminary Statement

Claimants file this Request for Interim Measures with ICDR, essentially under protest, and under direct threat from ICANN to materially prejudice Claimants' rights if this Request were not filed by today. Claimants believe this briefing is premature for reasons stated in their January 24 letter, and that this brief should not be due until 23 days after ICANN's Response is filed on Feb. 3 -- as was the schedule in the *Dot Registry* matter. Neither ICDR nor ICANN have offered any explanation for treating Claimants any differently in this case than the claimants in that case. Claimants reserve the right to supplement this Request upon receipt of ICANN's Response to Claimants' IRP Complaint on Feb. 3, and/or upon disclosure of requested information relevant to the Request.

As stated in Claimants' letter to ICDR dated January 24, and subject to further briefing to ICDR and the ICANN Ombudsman once information is disclosed to Claimants, Claimants maintain that ICDR has a clear financial conflict of interest as to this Request for Interim Measures. At minimum, there is clearly an *apparent* conflict because ICDR is the sole provider of IRP services to ICANN, and Claimants maintain that if a Standing Panel is created then ICDR could stand to lose cases and fees it otherwise would maintain. That conflict must be subject to proper disclosure to Claimants, and must be properly analyzed by both ICDR and ICANN before ICDR should appoint any Emergency Panelist and proceed to adjudicate this Request.

For reference, Claimants cite to the IBA Guidelines on Conflicts of Interest in International Arbitration, adopted by the IBA Council in 2014.¹ Those Guidelines are directly apposite to the situation, and should be deemed authoritative. General Standard 2(a) provides (emphasis added): "An arbitrator shall decline to accept an appointment or, if the arbitration has already been commenced,

¹ These are located at the IBA website: ibanet.org.

refuse to continue to act as an arbitrator, if he or she has ***any doubt*** as to his or her ability to be impartial or independent.” General Standard 2(c) provides an objective test to analyze such conflicts, generally. General Standard 2(d) further provides: “Justifiable doubts necessarily exist as to the arbitrator’s impartiality or independence in any of the situations described in the Non-Waivable Red List.” That List is found at Page 29, and includes #1.3: “The arbitrator has a significant financial or personal interest in one of the parties, or the outcome of the case.”

General Standard 3(a) provides: “If facts or circumstances exist that may, in the eyes of the parties, give rise to doubts as to the arbitrator’s impartiality or independence, the arbitrator shall disclose such facts or circumstances to the parties, ... prior to accepting his or her appointment.” Further, General Standard 3(d) provides: “Any doubt as to whether an arbitrator should disclose certain facts or circumstances should be resolved in favour of disclosure.” Finally, General Standard 5(b) provides that ICDR as administrator is bound by the same rules as set forth above, and “it is the responsibility of the Arbitral Tribunal to ensure that such duty is respected.”

Therefore, Claimants respectfully request ICDR and ICANN to fully disclose the terms of their financial relationship, and particularly as it relates or potentially may relate to any ICANN activities (if any) to create the Standing Panel that has been required by ICANN’s Bylaws for more than six years. At minimum, Claimants are entitled to see any and all contracts between ICANN and ICDR, as well as a summary of payments made by ICANN to ICDR each year since inception of the relationship. In addition, Claimants are entitled to see any and all correspondence between ICANN and ICDR referring or relating to the mythical Standing Panel that ICANN was to have created six years ago.

Only once such disclosure has been made can Claimants fairly evaluate the clearly *apparent* conflict of interest. Indeed, only upon reflection of such information could ICDR and/or ICANN make

any reasoned judgment as to ICDR's conflict of interest as to this Request. It is surely not enough for ICANN's lawyers to state in footnote of their last letter that "ICDR has no financial stake [as to] the Standing Panel." ICDR surely has an apparent stake, insofar as the Standing Panel might not even be managed by ICDR. ICANN's lawyers cannot promise that it will be, as ICANN has not made public any such decision. And clearly, if ICDR loses ICANN's IRP work then it will suffer financial detriment. That is more than enough to raise justifiable doubts as to ICDR's impartiality and independence as to Claimants' demand for imposition of the Standing Panel now. ICDR must therefore recuse itself, and ICANN must provide another forum for adjudication of this request.

Request for Interim Measures of Protection

Claimants respectfully seek Interim Measures of Protection pursuant to Section 10 of the Interim Rules, specifically requiring ICANN to: A) agree not to change the *status quo* as to the .HOTEL Contention Set during the pendency of this IRP; B) immediately appoint an ombudsman to review the BAMC's decisions in RFRs 16-11 and 18-6, as required by the Bylaws; C) meanwhile, appoint and train a Standing Panel of at least seven members as defined in the Bylaws and Interim Rules, from which any IRP Panel shall be selected per Section 3 of the Interim Rules, and to which Claimants might appeal, *en banc*, any IRP Panel Decisions per Section 14 of the Interim Rules; D) meanwhile, adopt final Rules of Procedure as required by ICANN Bylaws six years ago; E) meanwhile, preserve and direct HTLD, EIU, FTI and Afiliat to preserve all potentially relevant information for review in this matter; and, F) pay all costs of the Emergency Panel and of the IRP Panelists.

A. ICANN Must Maintain Status Quo as to .HOTEL Contention Set During Pendency of This IRP.

ICANN shows no respect for unanimous precedent prohibiting ICANN from changing the *status quo* as to any gTLD Contention Set, during the pendency of an IRP that could materially affect that

Contention Set. Here, as in the prior cases, Claimants' challenge underlying decisions of the ICANN Board that, if they are reconsidered by the Board as requested by Claimants, should lead to a different result than the one ICANN threatens to impose now. Specifically in this case, ICANN proposes to award the .HOTEL gTLD Registry Agreement to HTLD, thereby eliminating Claimants' applications from contention for award of that contract. In other words, ICANN's threatened action would make this IRP meaningless, and a complete waste of time and money -- because Claimants would have no recourse even if they prevail. ICANN already will have awarded the contract, and indeed the gTLD could even be operational by HTLD before this IRP concludes. That would leave Claimants with no possible redress for their Complaint.

In at least two prior cases, IRP Emergency Panels have held that ICANN could not change the *status quo* as to a Contention Set under such circumstances. *See Dot Registry, LLC v. ICANN*, ICDR Case No. 01-14-0001-5004, Emergency Independent Review Panelist's Order on Request for Emergency Measures for Protection (Dec. 23, 2014) (ordering ICANN to refrain from proceeding with Contention Set resolution, stating that ". . . the need for interim measures is urgent to prevent the imminent dissipation of substantial rights."; also stating that if ICANN was allowed to proceed with the auction, Dot Registry would potentially suffer an "irrevocable loss" that "would not be compensable by monetary damages."); *DCA Trust v. ICANN*, case no. 50 117 T 1083 13, Decision on Interim Measures of Protection (May 7, 2014) (ordering "ICANN [to] immediately refrain from any further processing of any application for .AFRICA until this Panel has heard the merits of DCA Trust's Notice of Independent Review Process and issued its conclusions regarding the same."; "In the Panel's unanimous view, therefore, a stay order in this proceeding is proper to preserve DCA Trust's right to a fair hearing and a

decision by this Panel before ICANN takes any further steps that could potentially moot DCA Trust's request for an independent review.”).

In *Dot Registry* the Emergency Panelist stated:

While ICANN surely has an interest in the streamlined and orderly administration of its processes, it cannot show hardship comparable to that threatened against Dot Registry. The interim measures sought here are rather modest, involving a delay of perhaps several months in a registration process that has been ongoing since 2012. ICANN has not identified any concrete harm that would result from the relatively short delay required for the IRP Panel to complete its review.

ICANN Bylaws specifically state that prior IRP decisions must be respected by ICANN as binding precedent. For example, per Art. 4.3(a)(vi), one of the explicitly stated “Purposes of the IRP” is to “Reduce Disputes by creating precedent to guide and inform the Board, Officers ..., Staff members.” And that clearly includes ICANN’s legal department, and ICANN’s outside counsel that is purportedly managed by ICANN Staff members. In addition, Art. 4.3(i)(ii) states (emphasis added): “All Disputes shall be decided in compliance with the Articles of Incorporation and Bylaws, as understood in the context of the norms of applicable law and prior relevant IRP decisions.” And furthermore, Art. 4.3(v) states (emphasis added):

[A]ll IRP decisions ... shall reflect a well-reasoned application of how the Dispute was resolved in compliance with the Articles of Incorporation and Bylaws, as understood in light of prior IRP decisions decided under the same (or an equivalent prior) version of the provision of the Articles of Incorporation and Bylaws at issue, and norms of applicable law.”

ICANN has no justification for ignoring these prior, binding precedents and forcing further briefing and yet another IRP panel decision as to the exact same issue in this case. The Bylaws do not materially differ from those in the prior cases. Indeed the facts and Bylaws in particular as to the *Dot Registry* case are relevantly virtually identical.

B. ICANN Has Denied Ombudsman Review of Claimants' RFRs, and indeed all RFRs, leaving the "Accountability Mechanisms Committee" to sham reconsider its own decisions re .HOTEL and all other New gTLDs.

The ICANN Board stated, in its curt denial of RFR 18-6:

Whereas, the BAMC previously determined that Request 18-6 is sufficiently stated and sent the Request to the Ombudsman for review and consideration in accordance with Article 4, Section 4.2(j) and (k) of the ICANN Bylaws.

Whereas, the Ombudsman recused himself from this matter pursuant to Article 4, Section 4.2(l)(iii) of the Bylaws.

There was no explanation given for the recusal. And as to RFR-16-11, even though the BAMC decided to consider that RFR in 2018, it failed to refer it to the Ombudsman as required by the Bylaws then in effect. Indeed, despite ICANN's latest Bylaws (Section 4.2(l)(iii)) that require a purportedly independent Ombudsman (though hired and paid by ICANN...) to review each and every RFR, as the only purportedly independent check on ICANN's decisions, short of filing an IRP Complaint. An IRP Complaint has required a minimum \$3750 filing fee to ICDR, the appointment of and payment for three distinguished arbitrators; and, they typically take well over a year to get to a Final Declaration. This new Ombudsman Review provision was added at community behest, to improve ICANN's accountability and transparency -- to provide a much-needed check on ICANN decisions, short of full-blown IRP proceedings. ICANN makes a mockery of that "accountability mechanism" by employing an Ombudsman who has stated, without explanation, that he is conflicted out of the vast majority of RFRs.

The RFR Bylaws are very clear (emphasis added):

(l) For all Reconsideration Requests ..., the Reconsideration Request shall be sent to the Ombudsman, who shall promptly proceed to review and consider the Reconsideration Request.

(i) The Ombudsman shall be entitled to seek any outside expert assistance as the Ombudsman deems reasonably necessary to perform this task to the extent it is within the budget allocated to this task.

(ii) The Ombudsman **shall** submit to the Board Accountability Mechanisms Committee his or her substantive evaluation of the Reconsideration Request within 15 days of the Ombudsman's receipt of the Reconsideration Request. The Board Accountability Mechanisms Committee shall thereafter promptly proceed to review and consideration.

Likewise, the Bylaws re the Ombudsman are clear and unequivocal, twice: Art. 4, Sec. 5.2, the Charter:

“With respect to the Reconsideration Request Process set forth in Section 4.2 , the Ombudsman shall serve the function expressly provided for in Section 4.2 .” Again in Sec. 5.3, Operations, “The Office of the Ombudsman shall: ... (b) perform the functions set forth in Section 4.2 relating to review and consideration of Reconsideration Requests.”

Moreover, Bylaws generally require ICANN to solicit and accept independent expert advice, which the Ombudsman is intended to seek out with respect to all RFRs, and produce an independent report for the BAMC. Otherwise, as under the old Bylaws in dozens of RFR cases re the new gTLD Program, the same committee of the Board that made the decision, also considered the RFR. Those five people on the BAMC routinely ‘reconsider’ their own decisions. Unsurprisingly, RFRs are always denied by the BAMC. Of the thirteen² RFRs concerning the new gTLD program filed since 2017, the BAMC has recommended that all thirteen be denied. The Board has adopted the BAMC’s recommendation in all of the 13 cases.

The “new” 2013 Bylaws were supposed to make the RFR process more meaningful, to provide a purportedly neutral³ check before BAMC decisions. That is particularly important where it is the BAMC

² This number only includes administratively compliant requests reviewed by the BAMC.

³ Note the Ombudsman is still hired, paid and fired at the pleasure of the ICANN Board, which also sets the budget for the Office of the Ombudsman. Bylaws Art. 5, Sec. 5.1.

decision that is under review. It is a sham that they are constantly, solely reviewing their own decisions. It is longstanding legal policy that a reviewing body should not take part in the investigation of the underlying decision. *E.g., Willapoint Oysters v. Ewing*, 174 F.2d 676, 692 (9th Cir. 1949) (“No officer, employee, or agent engaged in the performance of investigative or prosecuting functions for any agency in any case shall, in that or a factually related case, participate or advise in the decision, recommended decision, or agency review.”) (*quoting* section 5(c) of the Administrative Procedure Act).

But ICANN has subverted this check on its decisions by failing to provide a non-conflicted Ombudsman, not just in this case but in every single case concerning the new gTLD program at least since 2017. Indeed, it appears the Ombudsman has recused itself in 15 out of 18 cases, including 14 of 14 cases involving New gTLD applicants. One might reasonably believe that ICANN chose this Ombudsman because he is conflicted so often, or at least they do not mind that so much. As it has left very few cases where he has engaged -- and none re new gTLDs.

It clearly violates ICANN’s Bylaws to systematically refuse to provide this important, purportedly neutral and independent check prior to consideration and adoption by the BAMC or Board. This is especially important in this case, because it was the BAMC that made many of the underlying decisions which claimants sought ICANN to reconsider -- and the Board delegated that reconsideration, indeed all RFRs, to the BAMC. That committee contains just five members of the Board, who have unfettered power to “reconsider” their own critical decisions with respect to the New gTLD Program. The Ombudsman is supposed to provide a check on that.

At bare minimum, ICANN must disclose the specific reasons the Ombudsman recused, and explain why a substitute ombudsman could not have been appointed to fulfill this critical role. Otherwise, there appears to be no legitimate reason why Claimants have been denied that crucial right

in this case. That review could have helped avoid this IRP proceeding entirely, or at least substantially narrow the issues for decision. Indeed, it still can, via appointment of a substitute ombudsman to review this RFR as required by the Bylaws. The BAMC then should consider that input as required by the Bylaws. Perhaps then this IRP can be withdrawn, or at least substantially narrowed.

C. ICANN has continued to violate its Bylaws by failing to make any real progress to adopt a "Standing Panel" of specially trained IRP panelists, chosen with broad community input -- for some eight years -- through several iterations of Bylaws and a prior IRP Declaration clearly requiring them to do so.⁴

D. ICANN also has failed to adopt IRP Rules of Procedure -- for some six years -- despite the Bylaws that have clearly required ICANN to do so; instead, we have incomplete, improper 'Interim' rules in place for more than three years now, with no apparent timeline or plan to complete the actual Rules.

The Bylaws expressly have required creation of an IRP Standing Panel since 2013.⁵

There shall be an omnibus standing panel of at least seven members (the "**Standing Panel**") each of whom shall possess significant relevant legal expertise in one or more of the following areas: international law, corporate governance, judicial systems, alternative dispute resolution and/or arbitration. Each member of the Standing Panel shall also have knowledge, developed over time, regarding the DNS and ICANN's Mission, work, policies, practices, and procedures. Members of the Standing Panel shall receive at a minimum, training provided by ICANN on the workings and management of the Internet's unique identifiers and other appropriate training....

ICANN's own Interim Rules, Section 3 (since 2016) begins "The IRP Panel will comprise three panelists selected from the Standing Panel." Section 10 provides that the Emergency Panel shall be selected from the Standing Panel, which obviously will not be possible in this case. And, Section 14 provides for the right of appeal of IRP panel decisions to the illusory Standing Panel, *en banc*.^{6/7}

⁴ The former ICDR Supplemental Procedures for ICANN IRP, dated 2011, repeatedly referred to a standing panel that is yet to exist.

⁵ Bylaws, Sec. 4.3(j) and (k); *see also DCA Trust v. ICANN*, Decision on Interim Measures of Protection, ¶¶ 29-30 (May 12, 2014) (discussed *infra*).

⁶ Appeal of IRP Panel Decisions. An IRP Panel Decision may be appealed to the full Standing Panel sitting *en banc* within 60 days of the issuance of such decision. The *en banc* Standing Panel will review such appealed IRP Panel Decision based on a clear error of judgment or the

Claimants are deprived of these important procedural rights,⁸ because of ICANN's willful inaction, refusing to create a Standing Panel for some eight years now. Indeed, refusing to make much progress towards even beginning to establish one. This is particularly outrageous because ICANN was admonished by a previous IRP Panel for exactly this same reason, more than five years ago, in *DCA Trust v. ICANN*:⁹

29. First, the Panel is of the view that this IRP could have been heard and finally decided without the need for interim relief, but for ICANN's failure to follow its own Bylaws (Article IV, Section 3, paragraph 6) and Supplemental Procedures (Article 1), which require the creation of a standing panel [with] "knowledge of ICANN's mission and work from which each specific IRP Panel shall be selected."

30. This requirement in ICANN's Bylaws was established on 11 April 2013. More than a year later, no standing panel has been created. Had ICANN timely constituted the standing panel, the panel could have addressed DCA Trust's request for an IRP as soon as it was filed in January 2014. It is very likely that, by now, that proceeding would have been completed, and there would be no need for any interim relief by DCA Trust.

Now, it's six years later. Obviously, by its willful inaction, ICANN has decided the implementation and improvement of its so-called "Accountability Mechanisms" is an extremely low priority. ICANN has thumbed its nose at the *DCA Trust* IRP Panel Decision, for five years, despite all the very purposes of the IRP to provide binding decisions and guide ICANN actions to remedy Bylaws violations. ICANN has failed to come close to finalizing the Interim Rules imposed more than three

application of an incorrect legal standard. The en banc Standing Panel may also resolve any disputes between panelists on an IRP Panel or the Procedures Officer with respect to consolidation of Claims or intervention.

⁷ The Bylaws Sec. 4.3(e)(iv) also state that a mediator should be provided from the Standing Panel, during the precursor Cooperative Engagement Process ("CEP") phase of the IRP. Claimants were denied that opportunity during CEP.

⁸ Claimants also have been forced to pay a \$3750 filing fee to ICDR, despite Bylaws Sec. 4.3(r) ("ICANN shall bear all the administrative costs of maintaining the IRP mechanism, including compensation of Standing Panel members."). Claimants have requested ICANN to repay that filing fee to Claimants, and have been denied. Exhibit XX ("ICANN does not pay for the ICDR fees when there is no standing panel.")

⁹ *DCA Trust*, Decision on Interim Measures of Protection, ¶¶ 29-30 (May 12, 2014).

years ago, promised by the Bylaws six years ago. That failure likely will cause much to be argued by the parties and decided by the Panel -- which should have been the focus of ICANN-driven community consensus, and set in the Rules by now.¹⁰ But it hasn't been a priority for ICANN.

Indeed, it has directly benefited ICANN's finances, saving perhaps more than \$1 million per year on fees paid by IRP Claimants to the ICDR, which ICANN should be paying to maintain a Standing Panel as clearly required by its Bylaws since 2013.

It harms Claimants to not have benefit of appointments from a Standing Panel with the specialized training, resultant expertise, and community backing that the Bylaws required ICANN to provide to all IRP claimants, more than six years ago. And then, in the end, these Claimants entirely would be denied the basic *en banc* appeal mechanism provided by ICANN's own Interim Rules, which ICANN purportedly implemented more than three years ago -- except for that part about the Standing Panel. Still illusory, after all these years. ICANN has violated its Bylaws by taking so long to implement both the Standing Panel and the Rules of Procedure, causing direct harm to Claimants and to all parties who would seek Independent Review of ICANN conduct.

E. ICANN Must Preserve, and Direct HTLD, EIU, FTI and Afilias to Preserve, All Potentially Relevant Information for Review in this Matter.

Claimants respectfully request an order requiring ICANN to preserve, and to direct HTLD, EIU, FTI and Afilias to preserve, all potentially relevant information for review in this matter. Claimants shortly will make a detailed request to ICANN pursuant to its so-called Document Disclosure Policy

¹⁰ Bylaws, 4.3(n)(i) and (iv) "The Rules of Procedure are intended to ensure fundamental fairness and due process and shall at a minimum address the following elements: [for example]... (C) Rules governing written submissions.... (D) Availability and limitations on discovery methods; (E) Whether hearings shall be permitted ..."

("DIDP"), and incorporates that DIDP Request by reference herein as to the specific categories of documents that must be preserved in order for any IRP panel to fairly adjudicate this matter.

Many of those categories of documents were required to be disclosed by ICANN to the *Dot Registry* IRP panel, even after ICANN's repeated stonewalling as to the existence of some of them. See *Dot Registry, LLC v. ICANN*, ICDR Case No. 01-14-0001-5004, Amended Procedural Order No. 2 (requiring ICANN to produce "all non-privileged communications and other documents within its possession, custody or control referring to or describing (a) the engagement by ICANN of the Economist Intelligence Unit ("EIU") to perform Community Priority Evaluations, including without limitation any Board and staff records, contracts and agreements between ICANN and EIU evidencing that engagement and/or describing the scope of EIU's responsibilities thereunder, and (b) the work done and to be done by the EIU with respect to the Determination of the ICANN Board of Governance Committee on Dot Registry's Reconsideration Requests Nos. 14-30 (.LLC), 14-32 (.INC) and 14-33 (.LLP), dated July 24, 2014, including work done by the EIU at the request, directly or indirectly, of the Board of Governance Committee on or after the date Dot Registry filed its Reconsideration Requests, and (c) consideration by ICANN of, and acts done and decisions taken by ICANN with respect to the work performed by the EIU in connection with Dot Registry's applications for .INC, .LLC, and/or .LLP, including at the request, directly or indirectly, of the Board of Governance Committee."); *Id.*, Procedural Order No. 6 (Jun. 12, 2015) (ordering ICANN to produce documents requested by the panel, stating ("A party may not decline to produce a document that falls within the Panel's request on the basis that the party regards that document not to be "relevant.""). The panel stated:

To be clear, the Panel regards the Board of Governance Committee (the BGC") to be within the Panel's document production order, whether or not it is the full Board. The Panel did not limit our directive to the Board. Rather, the Panel requested all responsive ICANN documents, not solely Board documents. Among other matters, our

requests covered , to the extent that they are not covered by a privilege recognized by the applicable laws, the following : "communications between members of the Board of Governance Committee , ICANN Staff, and The Economist Intelligence Unit ("EIU") asking questions pertinent to Dot Registry's complaints , including inquiring into the EIU's purported research , scoring matrices and review of letters of support and opposition ; responsive communications from the EIU detailing the purported research, scoring matrices , and thoroughness of review; internal communications within ICANN and within the BGC discussing and considering the thoroughness of the EIU's work on Dot Registry's Community Priority Evaluations ("CPEs"); and deliberative documents for the BGC's meetings , resulting in drafts of the BGC Declaration that denied Dot Registry's Reconsideration Requests ."

See also, e.g., DCA Trust v. ICANN, case no. 50 117 T 1083 13, Procedural Order No. 3 (Sept. 25, 2014) (“ . . . the Panel is of the view that ICANN must respond to RD numbers 3 and 4 by DCA Trust and produce the documents requested . . . as set out in Procedural Order No. 3. In reaching its decision in this regard, the Panel has, among other things, taken into consideration the obligation of ICANN and its constituent bodies to “operate to the maximum extent feasible in an open and transparent manner and consistent with procedures designed to ensure CANN Bylaw, Article III, Section 1).”)

F. ICANN Must Pay All Costs of This IRP, Including All Panelists’ Fees.

Claimants respectfully demand that ICANN pay all costs of any Emergency Panelist in this matter (if any), and of all IRP panelists appointed in this matter, because that is clearly required by the ICANN Bylaws. Article 4.3(r) states that "ICANN shall bear all the administrative costs of maintaining the IRP mechanism, including compensation of Standing Panel members." Obviously, ICANN has intentionally refused to implement the Standing Panel, as it then would be required to pay millions of dollars in fees annually to the Standing Panel members, much of which is paid by Claimants to the ICDR now -- and for the past six-plus years since the Standing Panel was to be implemented. ICANN

cannot be allowed to blatantly ignore its crystal clear Bylaws commitments, and concomitant financial obligations, for so long and at such great cost to the broader community and to Claimants in this case.

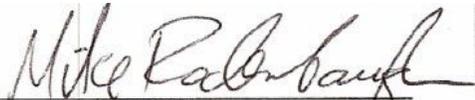
Certainly, there is no basis for ICDR to require Claimants to pay 100% of the Emergency Panel fees. ICDR offers no explanation as to why it has ordered that, rather than an equal pre-split of panel fees as with all other IRP panelists in previous cases.

CONCLUSION

For all of the foregoing reasons, and subject to further briefing once ICANN'S Response to Claimants' IRP Complaint and/or to this Request for Interim Measures, and once documents are properly disclosed by ICDR and ICANN, Claimants respectfully request an order requiring ICANN to: A) agree not to change the *status quo* as to the .HOTEL Contention Set during the pendency of this IRP; B) immediately appoint an ombudsman to review the BAMC's decisions in RFRs 16-11 and 18-6, as required by the Bylaws; C) meanwhile, appoint and train a Standing Panel of at least seven members as defined in the Bylaws and Interim Rules, from which any IRP Panel shall be selected per Section 3 of the Interim Rules, and to which Claimants might appeal, *en banc*, any IRP Panel Decisions per Section 14 of the Interim Rules; D) meanwhile, adopt final Rules of Procedure as required by ICANN Bylaws six years ago; E) meanwhile, preserve and direct HTLD, EIU, FTI and Afilias to preserve all potentially relevant information for review in this matter; and, F) pay all costs of the Emergency Panel and of the IRP Panelists.

RESPECTFULLY SUBMITTED,

DATED: January 30, 2020

By: 

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