

INTERNATIONAL CENTRE FOR DISPUTE RESOLUTION
International Arbitration Tribunal
ICANN Independent Review Process

ICDR Case No. 01-21-0004-1048

GCCIX, W.L.L.,

Claimant

and

INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS,

Respondent

PROCEDURAL ORDER NO. 5
(GCCIX DOCUMENT REQUESTS)

Tribunal

Gary L. Benton, Chair
Amb. (r.) David Huebner
Prof. Catherine Kessedjian

Date

12 December 2022

A. Introduction

1. This Order addresses the motion of Claimant GCCIX, W.L.L. (“GCCIX”) to compel production of documents by Respondent Internet Corporation for Assigned Names and Numbers (“ICANN”).
2. On the schedule agreed by the parties, GCCIX submitted its motion (“Opening Brief”) on 21 October 2021, ICANN submitted its Response (“Opposition Brief”) on 12 November 2022, and GCCIX submitted its Reply Brief on 18 November 2022.

B. Background

3. As confirmed in Procedural Order No. 1 dated 7 February 2022 (“PO1”), the Tribunal informed the Parties that this arbitration will be guided, as required by the applicable law, rules and practice, by principles of fairness, efficiency and accessibility. The Tribunal welcomed measures to advance the efficiency of the proceeding. The Tribunal expressly reminded the Parties that the Independent Review Process is intended to be a time and cost-efficient process.
4. As addressed in Procedural Order No. 4 dated 14 July 2022 (“PO4”), the Parties submitted an agreed schedule for document requests, responses and any related applications. The Tribunal adopted the proposed schedule provided by the Parties. The Tribunal required that the parties endeavor to produce responsive documents within 30 days of a request.
5. Additionally, as addressed in PO4, the Tribunal encouraged the Parties to stipulate to an initial exchange of reliance documents as that could greatly reduce the need for document requests. The Parties did not address the matter further with the Tribunal and, apparently, no reliance exchange was conducted.
6. The Parties did not seek to informally address document request disputes with the Tribunal. Rather, on 20 and 21 October 2022, the Parties notified the Tribunal that the Parties had agreed to a motion to compel briefing schedule and GCCIX submitted its Opening Brief.
7. The Redfern Schedule submitted by GCCIX with the Opening Brief appears to have been prepared by ICANN. It does not appear to include all the positions raised by the Parties. It contains the requests, GCCIX’s initially stated grounds for the requests and ICANN’s initially stated objections to the requests but it appears to predate the meet and confer, does not contain all stated grounds and objections, does not reflect any narrowing of the requests and objections, and does not identify the withdrawn requests, leaving all such matters to be addressed in the motion submissions.¹

C. Rulings

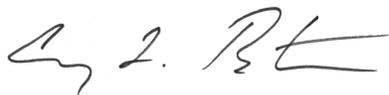
8. In making its rulings, the Tribunal applies the IRP Procedures, Section 8, on Exchange of Information allowing for exchange of information that the Panel determines “reasonably likely to be relevant and material...” The Tribunal finds this standard to be broader than the “narrow and material” standard typically applied in international arbitrations and applies it in the context that no reliance exchange has occurred.
9. It appears to the Tribunal that, on the whole, GCCIX’s requests are unreasonably broad and ICANN’s willingness to produce relevant and material documents is unreasonably narrow. Further,

¹ Although no further motions to compel are anticipated, it is expected that any such motions be submitted with a Redfern Schedule conforming to international standards by fully detailing the Parties’ positions (and provided in Word and PDF format).

ICANN has failed to adequately substantiate how various requests objected to are unduly burdensome. That requests date back many years is attributable to the fact that the dispute giving rise to this IRP has been ongoing for many years.

10. Both Parties have unduly complicated the information exchange process and added to costs by failing to exchange reliance documents, failing to exchange privilege logs upon request and failing to timely produce responsive documents.
11. Although ICANN's proposed stipulation of facts may advance the arbitration, it does not obviate its obligation to produce responsive documents.
12. The Tribunal makes its rulings as to each request in the final column of the Redfern Schedule and makes the following rulings as to all requests.
13. Subject to the limitations set forth in the attached Redfern Schedule rulings, ICANN is required to produce all responsive documents in its possession, custody and control within 30 days of the transmittal of this Order (or on such other date(s) to be agreed by the Parties). The term "ICANN constituent bodies" has the same definition as in the ICANN Bylaws.
14. ICANN shall honor all other commitments made in the course of meet and confer discussions, including its various commitments to direct GCCIX to public references.
15. Unless otherwise agreed by the Parties, privilege logs shall be exchanged within 30 days of the transmittal of this Order. Subject to further order, made upon request, privilege logs need not list protected communications with in-house counsel.
16. The Tribunal finds no basis to extend pre-hearing or evidentiary hearing dates at this time. Any fee requests will be considered with the final Decision in this IRP.

Date: 12 December 2022



Gary L. Benton, Chair
By and for the Tribunal

Attachment: Redfern Schedule rulings

No.	Description of Requested Document	Relevance and Materiality to the Outcome of the IRP Claimants' Response	ICANN's Response	Panel Decision
1.	<p>All communications, documents and things which concern, reference, reflect, relate to and/or arise from ICANN's treatment of the .GCC gTLD application, including (without limitation) initial consideration, reconsideration of the GCCIX application to operate the .GCC gTLD, the Independent Objection to Claimant's application, the Legal Rights Objection to Claimant's application, and/or all communications with Constituent Bodies (including without limitation the GAC).</p>	<p>Claimant has alleged that ICANN's treatment of Claimant's .GCC application has violated the Bylaws at all stages of the application. (Request, pgs. 18, 19). For instance, Claimant has alleged that "The Legal Rights Objection Terminated by ICANN – No Rationale" (Request Pg. 8). Additionally, Claimant has alleged that "ICANN has refused to provide any rationale for terminating the Legal Rights Objection process even though the Objection was fully briefed by the Objector and the Applicant, and fees were paid to WIPO for a decision." (Request, 9). These documents in ICANN's possession are relevant because they pertain to ICANN's discriminatory denial of Claimant's .GCC application, and would permit the Panel to properly evaluate whether ICANN's actions were consistent with its obligations under the Bylaws.</p>	<p>ICANN objects that the documents sought by this Request are not relevant or material to the outcome of this dispute and are incredibly overbroad. Claimant's claims in this IRP relate to ICANN's acceptance of the GAC consensus advice that Claimant's .GCC application should not proceed ("GAC Advice"), thereby halting the processing of Claimant's application. Claimant's claims <i>do not</i> relate to "all stages of the application." For instance, there are no claims related to the string similarity review, DNS stability review, technical and operational capability review, financial capability review, etc. Yet this Request purports to seek documents regarding each of these reviews (and more).</p> <p>ICANN further objects that the terms "treatment of," "initial consideration," and "Constituent Bodies" are vague and ambiguous.</p> <p>ICANN objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. ICANN will not produce privileged documents.</p> <p>ICANN further objects to this Request to the extent it seeks documents that are already in Claimant's possession, custody, and control, or that are publicly available and therefore equally available to Claimant.</p> <p>Subject to these objections, ICANN will conduct a reasonable search and produce non-public, non-privileged documents and communications regarding ICANN's communications with the GAC regarding the .GCC application following the 12 September 2021 Board Resolution authorizing ICANN staff</p>	<p>REQUEST ALLOWED AS TO ALL NON-PRIVILEGED, NON-PUBLIC DOCUMENTS IN ICANN'S POSSESSION, CUSTODY OR CONTROL RELATING TO (1) ICANN'S DECISION NOT TO PROCEED WITH THE .GCC APPLICATION; (2) ALL COMMUNICATIONS WITH THE GAC RELATING TO THE APPLICATION, (3) ALL COMMUNICATIONS WITH ANY OTHER ICANN CONSTITUENT BODIES RELATING TO THE DECISION NOT TO PROCEED; AND (4) ALL SUBSEQUENT DISPUTE RESOLUTION PROCEDURES.</p> <p>THE SCOPE EXCLUSIONS PROVIDED BY GCCIX IN ITS BRIEFING ARE ACCEPTED. THE TIME LIMITATION IMPOSED BY ICANN IS REJECTED. A PRIVILEGE LOG SHALL BE PROVIDED AND ALL RESPONSIVE DOCUMENTS SHALL BE PRODUCED WITHIN 30 DAYS.</p>

No.	Description of Requested Document	Relevance and Materiality to the Outcome of the IRP Claimants' Response	ICANN's Response	Panel Decision
			to open an informal dialogue with the GAC regarding the rationale for the GAC Advice ("September 2021 Board Resolution") from 12 September 2021 to the present.	
2.	All communications, documents and things which concern, reference, reflect, relate to and/or arise from Claimant's Request for Reconsideration, filed on Nov. 14, 2013.	Claimant alleges that ICANN failed "to provide meaningful review of the Request for Reconsideration." (Request, 18). All documents pertaining to the reconsideration of the Claimant's .GCC application are relevant to show that a meaningful review was not provided.	<p>ICANN objects to this Request to the extent that responsive documents are already in Claimant's possession, custody, and control, or are publicly available and therefore equally available to Claimant. See https://www.icann.org/resources/pages/13-17-2014-02-13-en; https://www.icann.org/resources/pages/2014-2015-01-28-en. Indeed, the publicly available materials include the Reconsideration Request filed by Claimant (along with the exhibits); a letter from WIPO to the Board Governance Committee ("BGC"); the BGC's Recommendation on Reconsideration Request 13-17; the New gTLD Program Committee ("NGPC") Action Adopting Recommendation of the BGC (including the rationale for denying the Reconsideration Request); and the minutes, committee papers, and reference materials from the 30 January 2014 meeting where Reconsideration Request 13-17 was considered.</p> <p>ICANN further objects to this Request to the extent it seeks documents protected by attorney-client privilege, work product doctrine, or any other applicable privilege. ICANN will not produce privileged documents.</p> <p>ICANN objects that this Request is overbroad and irrelevant to the extent it seeks information regarding aspects of the Reconsideration Request process that Claimant is not challenging in this IRP.</p> <p>Based on these objections and the volume of material that is publicly available regarding Reconsideration Request 13-17, ICANN does not agree to produce any documents in response to this Request.</p>	REQUEST ALLOWED WITH THE SAME LIMITATIONS AS PROVIDED IN REQUEST NO. 1

No.	Description of Requested Document	Relevance and Materiality to the Outcome of the IRP Claimants' Response	ICANN's Response	Panel Decision
3.	All communications, documents and things which concern, reference, reflect, relate to and/or arise from any ICANN request for the GAC to provide rationale for its advice to disallow the .GCC application.	Claimant has alleged that "to fail to allow Claimant's application to proceed to contracting, as required by the .Africa IRP panel in highly analogous circumstances -- the GAC and ICANN Board were held to have violated ICANN's Bylaws by failing to provide rationale for their decisions to reject that IRP claimant's application." (Request, 19). In order to prove that ICANN failed to follow the DCA v. ICANN or Amazon v. ICANN IRP precedents, and that it acted discriminatorily by failing to do so, Claimant requires all documents relating to both the GAC's rationale for providing its advice and ICANN's rationale for following the advice.	<p>ICANN objects that the phrase "disallow the .GCC application" is vague and ambiguous. ICANN assumes that this Request refers to communications about the GAC Advice following the September 2021 Board Resolution.</p> <p>ICANN further objects to this Request to the extent it seeks documents protected by attorney-client privilege, work product doctrine, or any other applicable privilege. ICANN will not produce privileged documents.</p> <p>Subject to these objections, ICANN will conduct a reasonable search and produce non-public, non-privileged communications between ICANN and the GAC regarding the GAC Advice following the September 2021 Board Resolution from 12 September 2021 to the present.</p>	REQUEST ALLOWED WITH THE SAME LIMITATIONS AS PROVIDED IN REQUEST NO. 1.

No.	Description of Requested Document	Relevance and Materiality to the Outcome of the IRP Claimants' Response	ICANN's Response	Panel Decision
4.	<p>All communications, documents and things which concern, reference, reflect, relate to and/or arise from ICANN's choice not to implement the GNSO Supermajority consensus policy that IGO acronyms are generally not to be reserved at the top-level.</p>	<p>o Claimant alleges that ICANN has violated its Bylaws by refusing "to provide any rationale for refusing to accept the unanimous GNSO Council recommendation against IGO acronym reservations at the top-level." (Request, 18). Any documentation in ICANN's possession that illustrates how or why ICANN refused to implement this consensus policy would therefore be highly relevant.</p>	<p>ICANN objects to this Request in that the phrase "implement the GNSO Supermajority consensus policy" is vague and ambiguous. In November 2013, the GNSO Council sent recommendations on the "Protection of IGO-INGO Identifiers in All gTLDs" to the ICANN Board for its consideration. In April 2014, the Board resolved to adopt the recommendations that were not inconsistent with GAC advice received on the topic, and then facilitated a dialogue between the GAC and the GNSO in an attempt to reconcile the remaining inconsistencies. ICANN assumes that this Request refers to the fact that the Board in April 2014 did not resolve to adopt the recommendations from the GNSO Council on the topic of IGO identifiers that were inconsistent with GAC advice.</p> <p>ICANN further objects that the documents sought by this Request are not relevant or material to the outcome of this dispute and are overbroad. Because the resolution at issue occurred nearly ten years ago, in 2014, there are now many potential documents that could "concern, reference, reflect, relate to and/or arise from" that resolution, and the vast majority of those documents have no relevance to Claimant or this IRP.</p> <p>ICANN objects to this Request to the extent that documents responsive to this Request are publicly available and therefore equally available to Claimant.</p> <p>ICANN further objects to this Request to the extent it seeks documents protected by attorney-client privilege, work product doctrine, or any other applicable privilege. ICANN will not produce privileged documents.</p> <p>ICANN is willing to meet and confer with Claimant regarding this Request.</p>	<p>REQUEST DENIED SUBJECT TO ANY AGREEMENT REACHED BY THE PARTIES IN THE COURSE OF MEET AND CONFER DISCUSSIONS.</p>

No.	Description of Requested Document	Relevance and Materiality to the Outcome of the IRP Claimants' Response	ICANN's Response	Panel Decision
5.	All communications, documents and things which concern, reference, reflect, relate to and/or arise from any of GCCIX's DIDP requests.	Claimant contends that ICANN has violated its core values by withholding "non-public documents on the alleged, vague basis of "confidentiality" and "material prejudice" to its relationships with the objectors and/or to ICANN's own deliberative process." (Request, 26). Documents related to ICANN's consideration of GCCIX's DIDP requests are therefore highly relevant to this IRP.	<p>ICANN objects to this Request to the extent that documents responsive to this Request are publicly available and therefore equally available to Claimant. All DIDP requests and responses, including Claimant's DIDP request and ICANN's response, are publicly available on ICANN's website. <i>See</i> https://www.icann.org/resources/pages/governance/transparency-en.</p> <p>ICANN further objects that this Request is not properly before this panel and is therefore irrelevant. According to ICANN's Bylaws applicable to this IRP, an IRP proceeding can only challenge ICANN Board action, not staff action. ICANN staff, not the Board, is tasked with responding to DIDP requests. Claimant did not file a Reconsideration Request seeking the Board's review of ICANN staff's DIDP Response and, as such, the DIDP Response involved no Board action.</p> <p>ICANN objects to this Request to the extent it seeks documents protected by attorney-client privilege, work product doctrine, or any other applicable privilege. ICANN will not produce privileged documents.</p> <p>Based on these objections, ICANN does not agree to produce any documents in response to this Request.</p>	REQUEST DENIED.

No.	Description of Requested Document	Relevance and Materiality to the Outcome of the IRP Claimants' Response	ICANN's Response	Panel Decision
6.	All communications, documents and things which concern, reference, reflect, relate to and/or arise from the facilitation of discussions pertaining to the .Amazon gTLD between the Amazon corporate applicant(s) and any or all the Amazonian country governments.	<p>o Claimant has alleged that ICANN has discriminated against Claimant by refusing to “facilitate discussions between Claimant and the CCASG, with the express view of reaching a mutually acceptable solution to allow for the use of .GCC as a top-level domain – the same facilitation it provided to Amazon, Inc. in its dispute with Amazonian governments.” (Request, 19). In order to show discriminatory treatment of Claimant, Claimant requires all documents in ICANN’s possession relating to the facilitation of Amazon’s .Amazon gTLD dispute with the Amazonian governments.</p>	<p>ICANN objects that the documents sought by this Request are not relevant or material to the outcome of this dispute. Claimant’s claims in this IRP relate to ICANN’s acceptance of the GAC Advice in 2013. Determining precedential value of the .AMAZON Final Declaration, issued in 2017, is a question of law, which <i>does not</i> require production of documents regarding a nonparty’s unrelated gTLD application. Claimant is engaging in a fishing expedition for documents that have no material impact on this IRP.</p> <p>ICANN further objects to this Request to the extent it seeks documents protected by attorney-client privilege, work product doctrine, or any other applicable privilege. ICANN will not produce privileged documents.</p> <p>Based on these objections, ICANN does not agree to produce any documents in response to this Request.</p>	REQUEST DENIED.
7.	All communications, documents and things which concern, reference, reflect, relate to and/or arise from ICANN’s facilitation of discussions between GCCIX and any other third party, including without limitation any or all of the CCASG country governments.	<p>o Plaintiff has alleged that ICANN has discriminated against Claimant by refusing to “facilitate discussions between Claimant and the CCASG, with the express view of reaching a mutually acceptable solution to allow for the use of .GCC as a top-level domain – the same facilitation it provided to Amazon, Inc. in its dispute with Amazonian governments.” (Request, 19). In order to show discriminatory treatment of Claimant, Claimant requires any and all documents which relate to facilitation of discussions relating to the .GCC TLD, if any.</p>	<p>ICANN objects that the phrase “facilitation of discussions” is vague and ambiguous. Moreover, Claimant’s rationale for this Request is that ICANN allegedly has “discriminated against Claimant by refusing to ‘facilitate discussions between Claimant and the CCASG, with the express view of reaching a mutually acceptable solution to allow for the use of .GCC as a top-level domain.’” Therefore, by Claimant’s own admission, this Request appears to seek documents that do not exist.</p> <p>ICANN further objects to this Request to the extent it seeks documents protected by attorney-client privilege, work product doctrine, or any other applicable privilege. ICANN will not produce privileged documents.</p> <p>Subject to these objections, ICANN does not agree to produce any documents in response to this Request.</p>	REQUEST ALLOWED WITH THE SAME LIMITATIONS AS PROVIDED IN REQUEST NO. 1.

No.	Description of Requested Document	Relevance and Materiality to the Outcome of the IRP Claimants' Response	ICANN's Response	Panel Decision
8.	All communications, documents and things which concern, reference, reflect, relate to and/or arise from ICANN's policy changes, procedural changes, or any other organizational changes in response to the DCA Trust or .Amazon IRP Decisions.	Claimant alleges that "ICANN has refused to acknowledge the precedential effect of the <i>DCA Trust</i> and <i>Amazon</i> decisions." (Request, 28). All documents which illustrate the actions ICANN has taken in response to the DCA Trust and .Amazon decisions are therefore highly relevant to show that ICANN has discriminated against Claimant by failing to equitably apply the reasoning and/or results of those decisions to Claimant's dispute.	<p>ICANN objects that the terms "procedural changes" and "organizational changes" are vague and ambiguous, such that ICANN cannot ascertain what documents Claimant is requesting or how they are relevant to this IRP.</p> <p>ICANN further objects that the documents sought by this Request are not relevant or material to the outcome of this dispute and are overbroad. Claimant's claims in this IRP relate to ICANN's acceptance of the GAC Advice. Any "policy changes" or "organizational changes" as a result of two unrelated prior IRPs are not relevant to this IRP. In any event, determining precedential value of the .AFRICA and .AMAZON Final Declarations, issued in 2015 and 2017 respectively, is a question of law, which does not require production of documents resulting from those IRPs. Claimant is engaging in a fishing expedition for documents that have no material impact on this IRP.</p> <p>ICANN objects to this Request to the extent it seeks documents protected by attorney-client privilege, work product doctrine, or any other applicable privilege. ICANN will not produce privileged documents.</p> <p>Based on these objections, ICANN does not agree to produce any documents in response to this Request.</p>	REQUEST DENIED.

No.	Description of Requested Document	Relevance and Materiality to the Outcome of the IRP Claimants' Response	ICANN's Response	Panel Decision
9.	All communications, documents and things which concern, reference, reflect, relate to and/or arise from an "IRP Standing Panel" (or lack thereof), between 2013 and the present date.	Claimant alleges that ICANN violated its bylaws by failing "to provide an Independent Review Process that complies with ICANN's Bylaws, specifically the Bylaw requirement (since 2013) that there be an expert, community-chosen Standing Panel from which panelists would decide all IRP cases, and which <i>en banc</i> would review all appeals of IRP decisions – and to fail to develop IRP Rules required by the Bylaws since 2013." (Request, 19). As such, this Request is relevant and material to that claim.	<p>ICANN objects that this Request is overbroad and unduly burdensome to the extent it seeks documents for nearly a ten-year period. ICANN also objects to this Request because Claimant's Amended IRP Request does not make any claims regarding the IRP Standing Panel. ICANN further objects that documents sought by this Request are publicly available, and therefore equally available to Claimant.</p> <p>ICANN objects to this Request to the extent it seeks documents protected by attorney-client privilege, work product doctrine, or any other applicable privilege. ICANN will not produce privileged documents.</p> <p>Based on these objections, ICANN does not agree to produce any documents in response to this Request.</p>	REQUEST WITHDRAWN. SEE MOTION PAR. 9.
10.	All documents that the GAC has considered which concern, reference, reflect, relate to and/or arise from .GCC, Claimant, or Claimant's application.	At the heart of this IRP is ICANN's decision to "accept[] an unsubstantiated GAC veto of this application." (Request, 21). All GAC documents that relate to Claimant's application are therefore highly relevant to show ICANN's lack of rationale in accepting the GAC veto.	<p>ICANN objects that the documents sought by this Request are not relevant or material to the outcome of this dispute and are overbroad. As Claimant acknowledges, this IRP relates to "ICANN's decision" (emphasis added) to accept the GAC Advice, not to what information the GAC considered prior to issuing that advice. Therefore, the documents sought by this Request are not relevant to Claimant's claims in this IRP.</p> <p>ICANN further objects to this Request to the extent it seeks documents outside of ICANN's possession, custody, and control.</p> <p>Based on these objections, ICANN does not agree to produce any documents in response to this Request.</p>	REQUEST ALLOWED WITH THE SAME LIMITATIONS AS PROVIDED IN REQUEST NO. 1.

No.	Description of Requested Document	Relevance and Materiality to the Outcome of the IRP Claimants' Response	ICANN's Response	Panel Decision
11.	All communications between any ICANN agent, including without limitation Jones Day, and any third party, that references .GCC, Claimant, and/or Claimant's application.	Claimant has alleged that ICANN has violated its Bylaws by discriminating against Claimant. All communications that reference Claimant are therefore relevant.	<p>ICANN objects that the documents sought by this Request are not relevant or material to the outcome of this dispute and are overbroad. Claimant's claims in this IRP relate to ICANN's acceptance of the GAC Advice. This IRP does not relate to communications between "any ICANN agent" and "any third party." And Claimant does not explain how communications between "any ICANN's agent" and "any third party" are relevant or material. Claimant simply argues that they allege that "<i>ICANN</i> has violated its Bylaws" (emphasis added), not that ICANN's agents somehow violated the Bylaws or facilitated the alleged violation of the Bylaws.</p> <p>Moreover, Claimants are wrong that "[a]ll communications that reference Claimant are therefore relevant." There are many aspects of Claimant's application that are not in dispute nor even at issue in this IRP. For instance, there are no claims related to the string similarity review, DNS stability review, technical and operational capability review, or financial capability review of Claimant's application. Yet this Request purports to seek documents regarding each of these reviews (and more).</p> <p>ICANN further objects to this Request to the extent it seeks documents protected by attorney-client privilege, work product doctrine, or any other applicable privilege. ICANN will not produce communications with Jones Day nor any other privileged documents.</p> <p>Based on these objections, ICANN does not agree to produce documents responsive to this Request.</p>	REQUEST WITHDRAWN. SEE MOTION PAR. 9.

No.	Description of Requested Document	Relevance and Materiality to the Outcome of the IRP Claimants' Response	ICANN's Response	Panel Decision
12.	<p>All documents and things which concern, reference, reflect, relate to and/or arise from the <i>DCA Trust</i> IRP, including without limitation all correspondence between the parties and between either party and the ICDR and/or IRP panel, and including without limitation the unredacted Final Hearing transcript, unredacted Emergency Panelist hearing transcript, and unredacted transcripts of all other hearings, Board resolutions and all documents related thereto.</p>	<p>Claimants seek review whether they were discriminated against in comparison to the claimant's treatment in the <i>DCA Trust</i> IRP. Therefore, documents from that IRP are relevant in this IRP.</p>	<p>ICANN objects that the documents sought by this Request are not relevant or material to the outcome of this dispute and are incredibly overbroad. Claimant's claims in this IRP relate to ICANN's acceptance of the GAC Advice in 2013. Determining precedential value of the .AFRICA Final Declaration, issued in 2015, is a question of law, which <i>does not</i> require production of documents related to that IRP. Moreover, documents related to an IRP that predates this action, has no relevance to this action, and about which Claimant makes no claims in this IRP are in no way relevant. Claimant is engaging in a fishing expedition for documents that have no material impact on this IRP.</p> <p>ICANN further objects to this Request to the extent it seeks documents protected by attorney-client privilege, work product doctrine, or any other applicable privilege. ICANN will not produce privileged documents.</p> <p>Based on these objections, ICANN does not agree to produce documents responsive to this Request.</p>	<p>REQUEST DENIED.</p>

No.	Description of Requested Document	Relevance and Materiality to the Outcome of the IRP Claimants' Response	ICANN's Response	Panel Decision
13.	<p>All documents and things which concern, reference, reflect, relate to and/or arise from the <i>Amazon</i> IRP, including without limitation all correspondence between the parties and between either party and the ICDR and/or IRP panel, and including without limitation the unredacted Final Hearing transcript and unredacted transcripts of all other hearings, recommendations, Board resolutions and all documents related thereto.</p>	<p>Claimants seek review whether they were discriminated against as in relation to the claimant's treatment in the <i>AMAZON</i> IRP. Therefore, documents from that IRP are relevant in this IRP.</p>	<p>ICANN objects that the documents sought by this Request are not relevant or material to the outcome of this dispute and are incredibly overbroad. Claimant's claims in this IRP relate to ICANN's acceptance of the GAC Advice in 2013. Determining precedential value of the <i>.AMAZON</i> Final Declaration, issued in 2017, is a question of law, which <i>does not</i> require production of documents related to that IRP. Moreover, documents related to an IRP that predates this action, has no relevance to this action, and about which Claimant makes no claims in this IRP are in no way relevant. Claimant is engaging in a fishing expedition for documents that have no material impact on this IRP.</p> <p>ICANN further objects to this Request to the extent it seeks documents protected by attorney-client privilege, work product doctrine, or any other applicable privilege. ICANN will not produce privileged documents.</p> <p>Based on these objections, ICANN does not agree to produce documents responsive to this Request.</p>	<p>REQUEST WITHDRAWN. SEE MOTION PAR. 9.</p>
14.	<p>All documents which concern, reference, reflect, relate to and/or arise from any communications between Claimant and ICANN relating to the GAC Advice, including but not limited to communications with Cherine Chalaby.</p>	<p>In the Amended IRP Request, Claimant challenges ICANN's processing of Claimant's application for the <i>.GCC</i> gTLD. Specifically, Claimant alleges that ICANN improperly accepted the GAC Advice, resulting in halting the processing of Claimant's application. See Amended IRP Request, pp. 19, 22-26. Therefore, the Request is relevant and material to Claimant's central claims in this IRP, ICANN's defenses, and the Panel's determination of Claimant's allegations.</p>	<p>ICANN objects to this Request to the extent it seeks communications with Claimant or documents that are publicly available, because these are equally available to Claimant.</p> <p>ICANN further objects to this Request to the extent it seeks documents protected by attorney-client privilege, work product doctrine, or any other applicable privilege. ICANN will not produce privileged documents.</p> <p>ICANN is willing to meet and confer with Claimant regarding this Request.</p>	<p>REQUEST WITH THE SAME LIMITATIONS AS PROVIDED IN REQUEST NO. 1.</p>

No.	Description of Requested Document	Relevance and Materiality to the Outcome of the IRP Claimants' Response	ICANN's Response	Panel Decision
15.	All documents and communications which concern, reference, reflect, relate to and/or arise from the Early Warning, including but not limited to any effort by ICANN and/or the GAC to address any concerns raised in the Early Warning.	In the Amended IRP Request, Claimant challenges ICANN's processing of Claimant's application for the .GCC gTLD. Specifically, Claimant alleges that ICANN accepted the GAC Advice "despite lack of any rationale provided by GAC for its advice." See Amended IRP Request, p. 19. Therefore, the Request is relevant and material to Claimant's central claims in this IRP, ICANN's defenses, and the Panel's determination of Claimant's allegations.	<p>Claimant appears to have copied this Request and the rationale nearly verbatim from ICANN's Requests for Production. This Request, however, is properly directed at Claimant, not at ICANN. The purpose of an Early Warning is to "provide[] the <i>applicant</i> with an indication that the application is seen as potentially sensitive or problematic by one or more governments" (emphasis added) and to give the <i>applicant</i> an opportunity to mitigate or address the concerns raised, which "may include meeting with representatives of the relevant government(s) to try to address the concern." See Applicant Guidebook, Ex. R-6, § 1.1.2.4. An Early Warning is not directed at ICANN or the GAC, nor does ICANN or the GAC respond to concerns raised in Early Warnings. Thus, ICANN objects to this Request as vague, ambiguous, overbroad, and irrelevant.</p> <p>Based on these objections, ICANN does not intend to produce documents in response to this Request.</p>	REQUEST ALLOWED WITH THE SAME LIMITATIONS AS PROVIDED IN REQUEST NO. 1.
16.	All documents and communications which concern, reference, reflect, relate to and/or arise from the public comments ICANN received about the .GCC application, as referenced in paragraph 23 of ICANN's Response to Claimant's Amended IRP Request, including but not limited to any effort by ICANN and/or the GAC to address the concerns raised in the public comments.	Between July and September 2012, ICANN received several public comments opposing Claimant's .GCC application. See ICANN's Response to Amended IRP Request, p. 7. ICANN's and/or the GAC's consideration of, and response to, those public comments are relevant and material to Claimant's central claims in this IRP, ICANN's defenses, and the Panel's determination of Claimant's allegations.	<p>Claimant appears to have copied this Request and the rationale nearly verbatim from ICANN's Requests. This Request, however, is properly directed at Claimant, not at ICANN. Once an application is publicly posted, ICANN opens a public comment period to allow "the community to review and submit comments on posted application materials." See Applicant Guidebook, Ex. R-6, § 1.1.2.3. Claimant's attempts, or failure to attempt, to address any concerns raised in the public comments are relevant to this IRP, which is why ICANN requested such documents from Claimant. Thus, ICANN objects to this Request as vague, ambiguous, overbroad, and irrelevant.</p> <p>Based on these objections, ICANN does not intend to produce documents in response to this Request.</p>	REQUEST ALLOWED WITH THE SAME LIMITATIONS AS PROVIDED IN REQUEST NO. 1.

No.	Description of Requested Document	Relevance and Materiality to the Outcome of the IRP Claimants' Response	ICANN's Response	Panel Decision
17.	<p>All documents which concern, reference, reflect, relate to and/or arise from communications between ICANN and the CCASG, the GAC, and/or any member of the CCASG and/or GAC relating to the .GCC new gTLD, the Early Warning, public comments, and/or the GAC Advice.</p>	<p>In the Amended IRP Request, Claimant challenges ICANN's processing of Claimant's application for the .GCC gTLD. Specifically, Claimant alleges that ICANN improperly accepted the GAC Advice, resulting in halting the processing of Claimant's application. See Amended IRP Request, pp. 19, 22-26. Claimant also alleges that ICANN accepted the GAC Advice "despite lack of any rationale provided by GAC for its advice." See <i>id.</i>, p. 19. In its Response to the Amended IRP Request, ICANN explains the GAC issued an Early Warning notifying Claimant that certain GAC members had "serious concerns" with the .GCC application. See, e.g., ICANN's Response to Amended IRP Request, pp. 1, 5, 7-9, 16. Therefore, this Request is relevant and material to Claimant's central claims in this IRP, ICANN's defenses, and the Panel's determination of Claimant's allegations.</p>	<p>ICANN objects to this Request to the extent it seeks documents protected by attorney-client privilege, work product doctrine, or any other applicable privilege. ICANN will not produce privileged documents.</p> <p>Subject to these objections, ICANN will conduct a reasonable search and produce non-public, non-privileged communications between ICANN and the CCASG or the GAC regarding the .GCC application following the 12 September 2021 Board Resolution from 12 September 2021 to the present.</p>	<p>REQUEST ALLOWED WITH THE SAME LIMITATIONS AS PROVIDED IN REQUEST NO. 1.</p>

No.	Description of Requested Document	Relevance and Materiality to the Outcome of the IRP Claimants' Response	ICANN's Response	Panel Decision
18.	All documents and communications which concern, reference, reflect, relate to and/or arise from the Legal Rights Objection proceeding before the World Intellectual Property Organization and Mediation Center ("WIPO"), including but not limited to all documents considered by ICANN in deciding to terminate that proceeding.	In the Amended IRP Request, Claimant challenges ICANN's processing of Claimant's application for the .GCC gTLD. Specifically, Claimant alleges that ICANN improperly terminated Gulf Cooperation Council's Legal Rights Objection proceeding filed with WIPO. See Amended IRP Request, pp. 19, 22-25. Therefore, this Request seeks documents relevant and material to Claimant's central claims in this IRP, ICANN's defenses, and the Panel's determination of Claimant's allegations.	<p>ICANN objects to this Request to the extent it seeks documents protected by attorney-client privilege, work product doctrine, or any other applicable privilege. ICANN will not produce privileged documents.</p> <p>ICANN further objects that this Request seeks documents outside of ICANN's possession, custody, and control because ICANN was not a party to the Legal Rights Objection ("LRO") proceeding before the World Intellectual Property Organization and Mediation Center ("WIPO"). For this reason, ICANN propounded nearly this exact Request on Claimant, and Claimant inexplicably copy and pasted from ICANN's Requests (including the stated rationale). ICANN objects to this Request to the extent it seeks documents that are already in Claimant's possession, custody, and control because, unlike ICANN, Claimant <i>was</i> a party to the LRO proceeding before WIPO.</p> <p>Subject to these objections, ICANN responds that the "WIPO proceeding for the Legal Rights Objection [did not move] forward based on the NGPC's action on 4 June 2013," as reflected in Christine Willett's letter to GCCIX dated 5 September 2013, attached as Annex 9 to Claimant's Amended IRP Request. The Beijing Communiqué, which contains the GAC Advice, and the NGPC's decision to adopt the GAC Advice are publicly available. ICANN will not produce additional documents in response to this Request.</p>	REQUEST ALLOWED AS TO ALL NON-PRIVILEGED, NON-PUBLIC DOCUMENTS IN ICANN'S POSSESSION, CUSTODY OR CONTROL RELATING TO THE GCCIX LRO.

No.	Description of Requested Document	Relevance and Materiality to the Outcome of the IRP Claimants' Response	ICANN's Response	Panel Decision
19.	All documents and communications supporting or demonstrating that ICANN considered – specifically -- whether or not Claimant's operation of the .GCC gTLD would further the public interest.	In the Amended IRP Request, Claimant challenges ICANN's processing of Claimant's application for the .GCC gTLD. Specifically, Claimant alleges that "ICANN has wholly failed to consider the public interest in having this regional TLD operate." Amended IRP Request, p. 21. Therefore, this Request seeks documents relevant and material to Claimant's central claims in this IRP, ICANN's defenses, and the Panel's determination of Claimant's allegations.	ICANN objects that this Request is vague and ambiguous as written. Subject to these objections, ICANN does not agree to produce any documents in response to these Requests.	REQUEST ALLOWED WITH THE SAME LIMITATIONS AS PROVIDED IN REQUEST NO. 1.
20.	All documents and communications that Respondent contends supports the statements in its Response to the Amended IRP Request.	This request seeks documents and communications that Respondent contends supports the statements made in its Response. As such, the Request is relevant and material to Claimant's central claims in this IRP, ICANN's defenses, and the Panel's determination of Claimant's allegations.	ICANN agrees to continue to produce documents and communications that support the statements in its Response to Claimant's Amended IRP Request and to complete its production by 3 March 2023. ICANN reserves the right in its briefing on the merits and at the IRP hearing to rely on any publicly available documents not produced in discovery.	REQUEST ALLOWED AS TO ALL NON-PRIVILEGED, NON-PUBLIC DOCUMENTS RELIED ON BY ICANN TO SUPPORT ITS AMENDED IRP RESPONSE.