Subject: [DIDP] DIDP request by George Kirikos in relation to documents relevant to IGO PDP Section 3.7 appeal, and the appeal process in general

Date: Sunday, June 10, 2018 at 7:53:03 AM Pacific Daylight Time

From: George Kirikos (sent by didp <didp-bounces@icann.org>)

To: didp@icann.org

CC: Mary Wong, Steve Chan, Susan Kawaguchi, Rafik Dammak, Heather Forrest, Austin, Donna, gnso-igo-ingo-.

Dear ICANN,

As you might be aware, I filed a Section 3.7 appeal in the IGO PDP working group, due to violations of the working group guidelines. Rather than treating that appeal with the gravity it deserved, there has been mere lip service paid to it by the relevant GNSO Council members and ICANN staff. Indeed, GNSO Council contemplates *changing* the GNSO guidelines in the future, potentially strengthening the power of the Chair of the working group by reducing the ability of the Section 3.7 appeal process to be used effectively. See:

https://mm.icann.org/pipermail/council/2018-May/021299.html

Section 3.4 (pages 6-7 of the attached PDF to that email, at the bottom). One can also review the transcripts of GNSO Council calls over the past few months, where reference has been made to my Section 3.7 appeal, and how it has been characterized in a one-sided manner against its initiator (myself).

I ask for the following documents/information/recordings because:

1. ICANN's bylaws require transparency to the maximum extent feasible.

2. it is contemplated that there will be reform of Section 3.7 of the working group guidelines in the future, so it is important for the public to understand fully how the process was used and responded to (especially from the perspective of GNSO Council, Co-Chairs, and staff).

3. The IGO PDP is nearing completion, and I wish to refer to these documents/recordings in a Minority Report and/or a post-PDP Working Group Self-Assessment (see Section 7.0 of the Working Group Guidelines for more info about that Self-Assessment).

4. NTIA has recently posed questions in a Notice of Inquiry:

https://urldefense.proofpoint.com/v2/url?u=http-3A__domainincite.com_23072-2Dus-2Dasks-2Dif-2Dit-2Dshould-2Dtake-2Dback-2Dcontrol-2Dover-2Dicann&d=DwICAg&c=FmY1u3PJp6wrcrwll3mSVzgfkbPSS6sJms7xcl4I5cM&r=AwuiV170y_cO2hW_1ggJGONKxUjcFSY5Y1no8Y2pP5w&m=MNowcLNy-JrC44joOf__gfSb39v8AgSm3Li_n08hvUI&s=MIu_BjyCJxM6ftcXiQKH5oW18q24febLaxG8DLM2I4g&e=

and I believe accountability of ICANN (including its appeal mechanisms) is a very important topic that should be addressed in a

response to that input. ICANN claims to be a "bottoms-up" organization, and steps that are taken or contemplated to reduce the ability for the "bottom" to appeal decisions at the "top" should be discussed.

5. ICANN has *already* posted a public copy of my own meeting with Heather Forrest and ICANN staff:

https://urldefense.proofpoint.com/v2/url?u=https-3A__community.icann.org_display_gnsoicrpmpdp_2018-2D02-2D20-2BDiscussion-2BCall&d=DwICAg&c=FmY1u3PJp6wrcrwll3mSVzgfkbPSS6sJms7xcl4I5cM&r=AwuiV170y_cO2hW_1ggJGONKxUjcFSY5Y1no8Y2pP5w&m=MNowcLNy-JrC44joOf__gfSb39v8AgSm3Li_n08hvUI&s=3k7_EOr7lXZf8BsoW4goBoYtEtbEZoSl6Nxkz_G_k6U&e=

That was posted without any delay after my Feb 20, 2018 call, see the Wiki page history of edits:

https://urldefense.proofpoint.com/v2/url?u=https-3A__community.icann.org_pages_viewpreviousversions.action-3FpageId-3D79435296&d=DwICAg&c=FmY1u3PJp6wrcrwll3mSVzgfkbPSS6sJms7xcl4I5cM&r=AwuiV170y_cO2hW_1ggJGONKxUjcFSY5Y1no8Y2pP5w&m=MNowcLNy-JrC44joOf__gfSb39v8AgSm3Li_n08hvUI&s=DdCZRfNVvt875jddTvMjDj-fLKrw35kNomMjq5TQG7s&e=

which shows it was updated February 21 and 22.

6. There is no expectation of privacy of any of these documents (see point #5 for how my own call was handled), and even if there was, the public interest in seeing these important accountability mechanisms in action outweighs any privacy interests.

7. If anything inappropriate took place in those calls and/or email exchanges, the individual(s) should be held accountable. It's transparency that helps to ensure that accountability takes place.

The documents/recordings/transcripts I seek are as follows:

A] The recordings/transcripts and all related documents (including any emails) of the call between the IGO PDP co-chairs (Phil and Petter) and Heather Forrest (GNSO Council Chair) that took place within days following the February 20, 2018 call I had with Ms. Forrest in relation to the Section 3.7 appeal (my call is public, see point #5 above). This has been requested repeatedly, e.g. see:

https://mm.icann.org/pipermail/gnso-igo-ingo-crp/2018-April/001139.html

(see attachment at very bottom) paragraph 3 ("Error #1").

B] Recordings/transcripts and all related documents (including any emails) of another call that took place between the co-chairs of the PDP and Ms. Forrest and Ms Kawaguchi (and ICANN staff) prior to the issuance of a "Summary Report", as was discussed at paragraphs 10-12 ("Error #3") of the document in A] above. This was requested on April 19th:

https://mm.icann.org/pipermail/gnso-igo-ingo-crp/2018-April/001117.html

"I assume the most recent call between the co-chairs, Heather and Susan is recorded (mentioned on page 2 of the Summary Report) is recorded, for transparency, as required by the Working Group guidelines. I'd like to listen to it. Please post it to the Wiki. The February 20, 2018 Section 3.7 call between myself, Paul T, Susan and Heather was posted:

https://urldefense.proofpoint.com/v2/url?u=https-3A__community.icann.org_display_gnsoicrpmpdp_2018-2D02-2D20-2BDiscussion-2BCall&d=DwICAg&c=FmY1u3PJp6wrcrwll3mSVzgfkbPSS6sJms7xcl4I5cM&r=AwuiV170y_cO2hW_1ggJGONKxUjcFSY5Y1no8Y2pP5w&m=MNowcLNy-JrC44joOf__gfSb39v8AgSm3Li_n08hvUI&s=3k7_EOr7lXZf8BsoW4goBoYtEtbEZoSl6Nxkz_G_k6U&e=

but the recording/transcript of the subsequent meeting between the co-chairs and Heather et al regarding the 3.7 appeal has never been posted on the wiki. That should be posted too, so we can transparently determine exactly what's happening."

C] All other documents and recordings (including emails) between ICANN Staff, GNSO Council members and the IGO PDP co-chairs relating to the handling of the Section 3.7 appeal.

D] All documents and recordings (including emails) between ICANN Staff and IGO PDP co-chairs relating to the anonymous survey held in October 2017 (a process that clearly violated the working group guidelines transparency requirements, and led to the eventual filing of the Section 3.7 appeal in December 2017). See:

https://mm.icann.org/pipermail/gnso-igo-ingo-crp/2017-October/date.html

for the starting point of that anonymous poll on the mailing list. These documents in [D] thus predate the actual filing of the Section 3.7 appeal (but are critical in understanding how we got there). IGO PDP co-chairs have often said that ICANN staff provided guidance that various actions were permitted -- let's see the actual discussions that took place.

If you need any further details from me on responding to this request, please do not hesitate to contact me.

Sincerely,

George Kirikos
Contact Information Redacted

https://urldefense.proofpoint.com/v2/url?u=http-3A__www.leap.com_&d=DwICAg&c=FmY1u3PJp6wrcrwll3mSVzgfkbPSS6sJms7xcl4I5cM&r=AwuiV170y_cO2hW_1ggJGONKxUjcFSY5Y1no8Y2pP5w&m=MNowcLNy-JrC44joOf__gfSb39v8AgSm3Li_n08hvUI&s=_YqyXCSj6oQBmAkZz7njoSIF7X8lut1S3elwHQhmGbo&e=