



Intellectual Property Constituency Public Comments on the Amendment of the GNSO Operating Procedures on the 2010 Selection Process for ICANN Board Seat 13.

The Intellectual Property Constituency (“IPC”) appreciates the opportunity to comment on the proposed Amendment of the GNSO Operating Procedures on the 2010 Selection Process for ICANN Board Seat 13 published by ICANN on January 28, 2010. See <http://www.icann.org/en/announcements/announcement-28jan10-en.htm>.

As the IPC understands it, the sole item published for public comment relates to the selection timetable, with all other issues related to the selection of Board Seat 13 to be left for decision by the Contracted Party House. We have no objections to the proposed time table. However, regarding leaving the balance of the issues to be resolved by the Contracted Party House, the IPC respectfully requests parity for the Non-Contracted Party House. When the time comes next year for the Non-Contracted Party House to fill seat 14, our House should also be allowed to decide how to do so and should not be required to follow the selection mechanisms adopted by the Contracted Party House.

From the perspective of the IPC, the decision to allow each House of the reorganized GNSO Council to decide separately who will fill one seat on the ICANN Board was one of the few positive features of the time-consuming and largely counter-productive process labeled “GNSO Improvement.” This reform has the potential to end the dominance of parties in a contractual relationship with ICANN over the selection of Board members by the GNSO. While we continue to believe that it would have been more equitable, given this historical imbalance, to allocate the first selection under the new system to the Non-contracted Parties House, we accept that this could not be achieved over the strong opposition of some of the contracted parties.

We remind the Board that the question of which House would be allowed to go first in selecting a Board member was hotly contested. It was not until the very end of the process of amending the ICANN by-laws that the Non-Contracted Party House acceded in letting the other house go first. It would not be appropriate to allow the Contracted Party House’s selection mechanism to govern the Non-Contracted Party House’s selection mechanism, merely because the Non-Contracted Party House was willing to compromise on an issue of timing in order to reach consensus on the by-law revisions.

Thank you in advance for your consideration of these comments.