

INDEPENDENT REVIEW PROCESS

INTERNATIONAL CENTRE FOR DISPUTE RESOLUTION

GCCIX, W.L.L.,) ICDR CASE NO. 01-21-0004-1048
)
Claimant,)
)
and)
)
INTERNET CORPORATION FOR ASSIGNED)
NAMES AND NUMBERS,)
)
Respondent.)
_____)

ICANN'S REPLY BRIEF IN SUPPORT OF ITS MOTION TO DISMISS

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INTRODUCTION

The Internet Corporation for Assigned Names and Numbers (“ICANN”) hereby submits its reply memorandum in support of its Motion to Dismiss Second Amended Request for Independent Review (“ICANN’s Motion” or “Motion to Dismiss”).

1. GCCIX, W.L.L.'s (“GCCIX”) Commercial Registration No. 78805-1 (“CR”) was deleted by law in August 2018, almost three years prior to filing this IRP. GCCIX has had more than *five years* to try to take “corrective action,” but it has failed to do so, despite several promises that such corrections are “imminent.” GCCIX was not a proper Claimant when it filed this IRP; GCCIX still is not a proper Claimant; and, at this point, the IRP should be dismissed.

2. In its Opposition to ICANN’s Motion, GCCIX fails to address the fundamental issue: GCCIX’s CR is deleted by law and cannot be revived, and thus GCCIX is not in good standing under the laws of the Kingdom of Bahrain. Whether GCCIX can *litigate* in Bahrain to recover a debt, which is the focus of GCCIX’s supporting declaration, is completely irrelevant. Rather, because GCCIX’s CR has been “deleted by law” for more than three years, GCCIX is not a legal entity and is currently—and will forever be—incapable of engaging in commercial activities, which leads to two insurmountable obstacles for GCCIX: (1) GCCIX is not a proper Claimant under ICANN’s Bylaws to initiate or maintain an IRP; and (2) GCCIX cannot make the warranties in the Registry Agreement required to operate a gTLD because it does not have a valid CR and is not in good standing.¹

¹ Declaration of Fatima Al Ali ¶ 24 (31 January 2024) (“F. Al Ali Decl.”), filed in support of ICANN’s Motion to Dismiss (“Non-renewal of the CR means that GCCIX may no longer engage in commercial activities.”). *See also* Reply Declaration of Fatima Al Ali ¶¶ 2, 4–6, n.2 (“F. Al Ali Reply Decl.”) (5 April 2024), filed concurrently with ICANN’s Reply Brief In Support of Its Motion to Dismiss (“ICANN’s Reply”).

3. Inexplicably, GCCIX’s Opposition does not address its inability to enter into a contract or engage in commercial activities,² tries to minimize controlling regulations from the Kingdom of Bahrain, and focuses the majority of its Opposition on GCCIX’s ability to litigate in Bahrain (citing a case that allows an entity in *dissolution* to file suit to recover a debt). Whether or not an entity in dissolution may sue to recover a debt is, of course, entirely beside the point. Instead, the question is whether GCCIX is a proper IRP “Claimant” under ICANN’s Bylaws, and whether GCCIX could (should it prevail in this IRP) enter into a Registry Agreement to operate a gTLD. Because the answer to both of those questions is a resounding “NO,” ICANN urges the Panel to grant ICANN’s Motion and end these proceedings.

4. GCCIX’s Opposition is astonishing in that it blatantly ignores the pivotal question: Why is GCCIX’s CR *still* deleted by law, rendering GCCIX incapable of entering into contracts or engaging in commercial activities under the laws of Bahrain? GCCIX has had *since August 2018 (over 5 years)* to cure its deficient Commercial Registration status with the Bahraini Ministry of Industry and Commerce (“Bahraini MOIC”) and has failed to do so, despite repeated representations by GCCIX’s counsel that it was taking corrective action. Indeed, in January 2023, GCCIX’s counsel promised that “the company status [would] be changed to active in 45 days,” which never happened.³ Similarly, immediately following the filing of ICANN’s Motion, GCCIX’s counsel told ICANN’s counsel that he would shortly provide documentation from the Bahraini MOIC stating that “the company is not liquidated and as such has all its rights and responsibilities including but not limited to the ability to ask for legal judgement on any

² Claimant’s Opposition to ICANN’s Motion to Dismiss Second Amended Request for Independent Review Process (15 March 2024) (“Opposition”) at 2, n.1.

³ Declaration of E. Enson filed in support of Motion to Dismiss (“E. Enson Decl.”) (5 February 2024), Exhibit D (Letter from A. Sayyar to M. Rodenbaugh (30 January 2023)).

issues affecting it.”⁴ Even though such alleged documentation (regarding ability to litigate) would have, in fact, been irrelevant to the issues raised in the Motion, no such verification from the Bahraini MOIC was ever provided or even referenced in GCCIX’s Opposition.

5. As ICANN explained in its moving papers, ICANN has engaged with GCCIX regarding GCCIX’s deficient CR status *since September 2022*. GCCIX has failed to provide requested proof of a valid CR no less than *five times* while ICANN has expended significant time, money, and resources litigating this matter and obtaining local counsel in Bahrain to better understand the implications of GCCIX’s deleted-by-law CR status. ICANN has provided GCCIX with every opportunity to address the issue; if GCCIX was able to do so, it would have done so by now. Despite GCCIX’s numerous promises over the years to provide documentation or to take corrective action with regard to its CR status, it has failed to do so. The time has now come to dismiss this action.

6. Indeed, in her declaration in support of ICANN’s Motion, ICANN’s expert (Fatima Al Ali) confirmed that, as of August 2021, GCCIX is no longer able to cure its CR status under Bahraini law and regulations, and Ms. Al Ali reconfirms that via her Reply Declaration, which ICANN submits with this memorandum.⁵

7. For all the reasons set forth herein, the Panel should grant ICANN’s Motion to Dismiss. GCCIX has had more than five years to try to cure its CR status. There is no reason whatsoever to wait another day to dismiss this IRP.

⁴ Declaration of J. LeVee filed in support of ICANN’s Reply (“J. LeVee Decl.”) (5 April 2024), Exhibit A (Email from M. Rodenbaugh to J. LeVee (12 February 2024)).

⁵ F. Al Ali Reply Decl., ¶¶ 8, 9, 11.

ARGUMENT

8. GCCIX’s Opposition fails to resolve ICANN’s Motion to Dismiss for two reasons. First, GCCIX indisputably does not qualify as a proper “Claimant” under ICANN’s Bylaws because it is not a legal entity. GCCIX admits that its CR status is “deleted by law” and does not provide a shred of evidence on how it could cure the problem,⁶ which ICANN’s expert on Bahraini law says cannot be cured.⁷ Second, this IRP lacks substance because, regardless of the outcome of this IRP, without a valid CR, GCCIX is not permitted to engage in the commercial activities required to operate the .GCC gTLD. Such activities include but are not limited to entering into a Registry Agreement with ICANN in which GCCIX *must* warrant its good standing in Bahrain.

I. GCCIX DOES NOT QUALIFY AS AN IRP “CLAIMANT” BECAUSE IT IS NO LONGER A “LEGAL ENTITY.”

9. ICANN’s Bylaws are clear: in order for an entity to be a “Claimant” entitled to file and prosecute an IRP it must be a “legal . . . entity.”⁸ Under no version of facts is GCCIX a qualifying legal entity. Bahraini law, Article 7 of 3.1.3 Decree Law No. (27) of 2015, clearly states that a commercial entity may not engage in commercial activities without a valid CR.⁹ GCCIX does not dispute this point. Commercial registration information from the Bahraini MOIC demonstrates that GCCIX’s CR was deleted on 29 August 2018 (*before* GCCIX filed this

⁶ Opposition at 5 (admitting that “GCCIX remains in ‘deleted by law’ status, as GCCIX works to remedy that situation through Bahraini courts and the Ministry” but providing no path to reinstatement).

⁷ F. Al Ali Decl., ¶ 20; F. Al Ali Reply Decl., ¶¶ 8, 9, 11.

⁸ Bylaws for Internet Corporation for Assigned Names and Numbers (“Bylaws”) (as amended 17 November 2023), Art. 4, § 4.3(b)(i), Exhibit 3 to Motion to Dismiss; Interim Supplementary Procedures for Internet Corporation for Assigned Names and Numbers (ICANN) for Independent Review Process (IRP) (“Interim Supp. Proc.”) (25 October 2018), Rule 1, Exhibit 8 to Motion to Dismiss.

⁹ F. Al Ali Decl. ¶ 14 (citing Article 7 of 3.1.3 Decree Law No. (27) of 2015, stating “The registration applicant, in this case, *may not undertake commercial activity before obtaining the necessary licenses from the competent authorities* and submitting them to the concerned Directorate and obtaining a certificate of registration in the Commercial Register stating the type of the licensed commercial activity.”) (emphasis added).

IRP).¹⁰ Again, GCCIX does not dispute this and has acknowledged its deficient registration status with the Bahraini MOIC in both in its Opposition and numerous representations to ICANN.¹¹ In short, GCCIX had no business filing this IRP when it knew, or should have known, that its commercial registration had been deleted by law for more than two years; and GCCIX certainly has no business continuing to prosecute this IRP given that its CR remains deleted by law.

10. Further, GCCIX cannot cure its deficient CR and inability to engage in commercial activities. Bahraini regulations establish a three-year limitations period for reviving a CR that has been deleted by law. Article 20 of the CR Implementing Regulations states that “[t]he relevant authority shall reinstate the cancelled registration due to non-renewal or cessation of activity in accordance with the provisions of Article (17) of this regulation, *within three years from the date of deletion*, upon a request from the registrant and after collecting the prescribed fees, along with the applicable financial penalty for each month of delay or part thereof, starting from the date of registration cancellation.”¹² GCCIX’s CR has been deleted by law since August 2018, thereby exceeding this time limitation by nearly three additional years.¹³ Neither GCCIX nor its Bahraini counsel point to any authority stating this is not true. Indeed, the only source cited by Mr. Sayyar (Article 13) merely states that “[t]he concerned Directorate may, upon the trader’s request, restore the registration after payment of the prescribed fee in addition to a fine for every month of delay with effect from the date of striking off the registration.”¹⁴ This

¹⁰ Commercial Registration Information for GCCIX, W.L.L. (28 August 2011), Exhibit 2 to Motion to Dismiss.

¹¹ Opposition at 5.

¹² F. Al Ali Decl., ¶ 18, n. 8 (citing Article 20) (emphasis added). Relying on Article 20, Ms. Al Ali declares that “A deleted CR that is not restored within three years from the date of deletion is considered finally struck off the commercial register and may not be restored.” (¶ 20); *see also* F. Al Ali Reply Decl., ¶¶ 8, 9, 11.

¹³ Commercial Registration Information for GCCIX, W.L.L., Exhibit 2 to Motion to Dismiss (stating that GCCIX’s registration was “deleted by law” as of 29 August 2018).

¹⁴ Declaration of Abdullah Sayyar ¶ 10 (“A. Sayyar Decl.”) (15 March 2024), filed in support of GCCIX’s Opposition.

statement does not contradict the text and authority of Article 20, as Ms. Al Ali explains in her Reply Declaration.¹⁵ Indeed, Ms. Al Ali recently confirmed with the Bahraini MOIC that a CR cannot be reinstated once it has been expired for more than three years.¹⁶ Moreover, even if Mr. Sayyar was correct—which he is not—no law, regulation, opinion, treatise or other authority can possibly change the fact that GCCIX has *not*, in fact, restored its CR status. It remains, to this day, deleted by law.

11. GCCIX has had *more than 5 ½ years* to address its CR issues with the Bahraini MOIC and has been unable to do so. The facts speak for themselves:

- GCCIX’s CR expired and was deleted by law as of 29 August 2018.¹⁷
- GCCIX filed its first request for IRP in 2021, nearly *three years after* its CR had been “deleted by law” by the Bahraini MOIC.¹⁸
- During the course of this IRP, ICANN requested documents related to GCCIX’s “formation as a W.L.L.” in Bahrain.¹⁹ *GCCIX refused to produce any documents responsive to this request.*

¹⁵ F. Al Ali Reply Decl., ¶ 8 (citing Article 20 of the CR Implementing Regulations, 3.1.4 Order No. (126) of 2016 issuing the Implementing Regulation of the CR Law). This is no different than in the United States, where it is well established that regulations carry the “force of law” when it appears that Congress delegated authority. *United States v. Mead Corp.*, 533 U.S. 218, 218 (2001), LA-1; *see also Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 212 (2016), LA-2 (“When Congress authorizes an agency to proceed through notice-and-comment rulemaking, that procedure is a ‘very good indicator’ that Congress intended the regulation to carry the force of law, so *Chevron* should apply.”). This concept is further memorialized through “Chevron deference” which sets forth a legal test for when a court should refer to an agencies’ answer or interpretation. *See Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), LA-3.

¹⁶ F. Al Ali Reply Decl. ¶ 9 (“In response to my request, the Bahraini MOIC confirmed that Article 20 is controlling and that a CR cannot be reinstated after three years of deletion.”)

¹⁷ Commercial Registration Information for GCCIX, W.L.L., Exhibit 2 to Motion to Dismiss (stating that GCCIX’s registration was “deleted by law” as of 29 August 2018).

¹⁸ *Id.*

¹⁹ E. Enson Decl., Exhibit A (Claimant’s Response to Request for Production of Documents (16 September 2022)) (Request No. 17 seeks “All documents and communications relating to Claimant’s formation as a W.L.L., including but not limited to any Articles of Association, any documents reflecting Claimant’s mission or purpose, and documents sufficient to show when Claimant was formed.”).

- As part of the meet and confer process, GCCIX agreed on 21 October 2022 “to produce documents sufficient to show the status of GCCIX’s commercial registration in Bahrain or elsewhere.”²⁰ ***GCCIX again failed to produced any documents.***
- Having heard nothing, on 13 January 2023, ICANN’s counsel requested GCCIX provide “evidence that GCCIX remains in good standing in Bahrain” by 20 January 2023.²¹ ***GCCIX did not respond.***
- On 30 January 2023, GCCIX’s counsel produced a letter from a Bahraini lawyer claiming that GCCIX’s status would be “changed to active in 45 days.”²² This was over a year ago. Yet, ***GCCIX’s CR status was not changed “within 45 days” and remains deficient.***
- On 28 August 2023, counsel for ICANN forwarded a letter to GCCIX’s counsel containing the opinion of Bahraini counsel, Fatima Al Ali.²³ The opinion letter of Ms. Al Ali clearly states that: (1) GCCIX cannot engage in commercial activities; and (2) GCCIX cannot reinstate its CR under Bahraini law.²⁴ ***GCCIX never responded to the 28 August 2023 letter or the opinion letter of Ms. Al Ali.***
- On 12 February 2024, after ICANN filed its Motion to Dismiss, the parties conferred about a briefing schedule. During that call, GCCIX’s counsel told ICANN’s counsel that GCCIX was working on obtaining documentation from the

²⁰ E. Enson Decl., Exhibit B (Email chain between K. Watne and M. Rodenbaugh (18 October 2022 – 21 October 2022)).

²¹ E. Enson Decl., Exhibit C (Letter from E. Enson to M. Rodenbaugh (13 January 2023)).

²² E. Enson Decl., Exhibit D (Letter from A. Sayyar to M. Rodenbaugh (30 January 2023)).

²³ E. Enson Decl., Exhibit I (Email from E. Enson to M. Rodenbaugh (28 August 2023)).

²⁴ E. Enson Decl., Exhibit H (Opinion Letter of Fatima Al Ali (23 August 2023)).

Bahraini MOIC regarding its corporate status. This is memorialized in an email sent by GCCIX’s counsel on 12 February 2024, which states:

As discussed on the phone, this is what my client says they will have soon... from the ministry of commerce... A statement saying regardless of the current registration status, the company is not liquidated and as such has all its rights and responsibilities including but not limited to the ability to ask for legal judgement on any issues affecting it. It’s being signed and stamped and then translated and attested by ministry of foreign affairs as authentic. I will forward any copy of this as soon as I receive it, even if not yet formally authenticated.²⁵

GCCIX never provided this or any other statement from the Bahraini MOIC,²⁶ and such a statement would not, in all events, cure the defects that warrant dismissal of this IRP because it would not reinstate GCCIX’s CR status.

- GCCIX’s Opposition provides only vague references to its efforts to cure its CR status, conceding that “GCCIX remains in ‘deleted by law’ status, as GCCIX works to remedy that situation through Bahraini courts and the Ministry.”²⁷

Indeed, only after receiving a question from the Panel Chair following the filing of GCCIX’s Opposition did GCCIX’s counsel state that GCCIX “is taking

²⁵ J. LeVee Decl., Exhibit A (Email from M. Rodenbaugh to J. LeVee (12 February 2024)); *see also* J. LeVee Decl., Exhibit B (Correspondence between the Parties and the Panel (13 Febaury 2024 – 14 Febaury 2024)).

²⁶ J. LeVee Decl., Exhibit C (Email from J. LeVee to M. Rodenbaugh (19 Febuary 2024)) (inquiring when ICANN could expect the “statement” from the Bahraini Ministry of Industry and Commerce).

²⁷ Opposition at 5.

corrective action as to its corporate status in Bahrain.”²⁸ Notably, GCCIX did not support this statement with any *evidence* of its “corrective action.”

12. Furthermore, GCCIX’s last-ditch arguments regarding discrete portions of ICANN’s Bylaws are meritless. First, whether or not Claimants must plead their legal capacity in the initial IRP filing misses the point. A “Claimant” must qualify as a “Claimant” under ICANN’s Bylaws, plain and simple. The fact that a Claimant is not required to affirmatively include its legal capacity in the initial pleadings does not absolve it of the requirements necessary to be a proper Claimant under ICANN’s Bylaws. GCCIX does not have a valid commercial registration; and GCCIX did not have a valid commercial registration when it filed the initial IRP Request, the Amended IRP Request, or the Second Amended IRP Request. Without a valid CR, GCCIX is not a legal entity and does not have the legal ability to function as a commercial entity. Thus, GCCIX cannot be a “Claimant” in an IRP, much less be an entity that is capable of operating a gTLD, which requires the ability to enter into a Registry Agreement and engage in commercial activities.

13. Second, whether or not GCCIX was harmed by ICANN’s alleged actions also misses the point. Even if GCCIX suffered some type of harm, GCCIX is not a proper IRP Claimant and, as explained below, ICANN’s Bylaws and the Interim Supplementary Rules clearly permit dismissal when an IRP lacks substance, as is the case here.

²⁸ J. LeVee Decl., Exhibit D (Email from M. Rodenbaugh to G. Benton (18 March 2024)).

II. THIS IRP “LACKS SUBSTANCE” BECAUSE GCCIX IS NOT PERMITTED TO ENGAGE IN COMMERCIAL ACTIVITIES AND THEREFORE CANNOT OPERATE A GTLD.

14. GCCIX does not dispute that it cannot sign a Registry Agreement, which is *required* in order to operate a gTLD. Without the ability to operate the .GCC gTLD—and a signed Registry Agreement is a prerequisite for doing so—this entire IRP is pointless.

15. This Panel has authority under ICANN’s Bylaws and the Interim Supplementary Procedures to summarily dismiss actions that “lack substance.”²⁹ Notably, this is an *independent basis* for summary dismissal. Indeed, this Panel can also summarily dismiss a request for independent review if the Claimant has not demonstrated that it has been materially affected by a dispute, or if the proceeding is frivolous or vexatious.³⁰ Thus, contrary to GCCIX’s erroneous Bylaws argument, whether a Claimant was materially affected by an alleged dispute does not alter this Panel’s ability to summarily dismiss this IRP.

16. GCCIX refuses even to address ICANN’s argument that this IRP lacks substance and instead attempts to avoid the issue with an ambiguous footnote calling the argument “hypothetical.”³¹ Nothing could be further from the truth. In reality, the hypothetical here is GCCIX’s claim that it might be able to cure its CR status at some point in the future, which is something it has been promising to do for the last two years. Whether or not GCCIX can obtain the relief it seeks is of critical importance *now* because it determines the entire validity of this IRP. Today, right now, GCCIX would not be able to execute a Registry Agreement. And ICANN’s expert, Ms. Al Ali, has explained that GCCIX’s CR cannot be revived.³² There is no

²⁹ Bylaws, Art. 4, § 4.3(o)(i); Interim Supp. Proc., Rule 9.

³⁰ Interim Supp. Proc., Rule 9.

³¹ Opposition at 2, n.1.

³² F. Al Ali Decl., ¶ 20; F. Al Ali Reply Decl., ¶¶ 8, 9, 11.

point in the parties and the Panel expending additional time, money, and resources on this proceeding when GCCIX is legally incapable of operating the applied-for .GCC gTLD.

17. As set forth in ICANN’s Motion to Dismiss, the New gTLD Applicant Guidebook (“Guidebook”) is clear that the execution of a Registry Agreement is required *before* a gTLD registry can be operated.³³ GCCIX was well aware of this requirement when it applied to operate the .GCC gTLD. As part of the Registry Agreement, each Registry Operator must warrant that it “is duly organized, *validly existing and in good standing under the laws of the jurisdiction set forth in the preamble hereto* [i.e., its state or country of incorporation], and Registry Operator has all requisite power and authority and has obtained all necessary approvals to enter into and duly execute and deliver this Agreement[.]”³⁴ From the inception of this IRP to date, GCCIX has been and is unable to make this representation because its CR was “deleted by law” in Bahrain more than two years prior to the filing of this IRP.

18. Instead of addressing this insurmountable barrier, the majority of GCCIX’s Opposition and supporting legal opinion focus on GCCIX’s ability to litigate in Bahrain. Indeed, Mr. Sayyar’s legal opinion is actually titled “Legal Opinion Regarding GCCIX’s Right to Litigate[.]”³⁵ and he concludes by stating “it is clear that GCCIX maintains its legal personality

³³ Guidebook, § 1.1.2.11, Exhibit 7 to Motion to Dismiss (“Applicants successfully completing all the relevant stages outlined in this subsection 1.1.2 are required to carry out a series of concluding steps before delegation of the applied-for gTLD into the root zone. *These steps include execution of a registry agreement with ICANN* and completion of a pre-delegation technical test to validate information provided in the application.”) (emphasis added).

³⁴ ICANN Base Registry Agreement (30 April 2023), § 1.3(a)(ii), p. 1, Exhibit 10 to Motion to Dismiss (emphasis added). The Base Registry Agreement also requires Registry Operators to warrant that “*all material information provided and statements made in the registry TLD application*, and statements made in writing during the negotiation of this Agreement, were true and correct in all material respects at the time made, *and such information or statements continue to be true and correct in all material respects* as of the Effective Date except as otherwise previously disclosed in writing by Registry Operator to ICANN[.]” *Id.* at § 1.3(a)(i) (emphasis added). As an entity deleted by law, GCCIX again cannot make this representation.

³⁵ A. Sayyar Decl., p. 1.

and may litigate to protect its rights, because it is neither liquidated nor dissolved.”³⁶ But whether or not GCCIX can *litigate* is irrelevant to the question of whether it can be a Claimant in this IRP. Critically, Appeal No. 349—the only case provided by GCCIX’s Bahraini counsel—does not establish: (1) that GCCIX can reinstate its CR; or (2) that GCCIX can engage in the commercial activities required to operate the .GCC gTLD, which in fact it cannot do, as Ms. Al Ali’s two declarations make clear.³⁷

19. Rather, Appeal No. 349 is a contract action filed by a company that is going out of business and is trying to collect outstanding debts during dissolution. The translated opinion notes that a company’s “legal personality” “does not cease until its liquidation is complete and *retains to the extent necessary to carry out the liquidation*, including the recovery of the company’s rights from others[.]”³⁸ This makes sense (and in her reply declaration Ms. Al Ali does not disagree) because a company going out of business should be able to recover its debts for the benefit of creditors and equity holders.³⁹ Similarly, in the United States, trustees during bankruptcy proceedings can continue to file and prosecute lawsuits on behalf of the debtor to collect money for creditors during the liquidation process.⁴⁰ But this IRP does not involve an effort by GCCIX to recover money during a liquidation process. Rather, via this IRP, GCCIX seeks to operate a gTLD on a *going forward* basis, but since GCCIX is not an ongoing corporate

³⁶ A. Sayyar Decl., ¶ 15. On page 2 of his declaration, Mr. Sayyar cites Article 268, Article 8, and Article 326 to the effect that a company in liquidation retains its corporate identity so that it can litigate against creditors. ICANN does not quarrel with these authorities, which are beside the point in this IRP. (A. Sayyar Decl. ¶ 2, 3.)

³⁷ Moreover, Appeal No. 349 was decided *before* Article 20 of the CR Implementing Regulations came into effect which further delegitimizes the application of Appeal No. 349 to this IRP proceeding. F. Al Ali Reply Decl., ¶ 9.

³⁸ A. Sayyar Decl., Exhibit A, p. 3; *see also* A. Sayyar Decl. ¶ 6 (“The Court of Cassation held that, according to Article 326, a limited liability company does not cease until its liquidation is completed and the company is dissolved.”).

³⁹ *See* F. Al Ali Reply Decl., ¶¶ 4–6.

⁴⁰ 11 USCA § 323, LA-4 (granting trustee capacity to sue on behalf of debtor); *see also* Daniel A. Austin, *The Bankruptcy Clause and the Eleventh Amendment: An Uncertain Boundary Between Federalism and State Sovereignty*, 42 U.S.F. L. Rev. 383, 383 (2007), LA-5 (“There are, nonetheless, many provisions of the Bankruptcy Code that permit litigation to recover assets of the debtor or to administer the debtor’s estate. These include suits by debtors or trustees against creditors, suits by creditors against the debtor, and suits against third parties.”).

entity—and cannot ever restore its CR status—there literally is no reason for this IRP to continue.

CONCLUSION

20. There is no basis for the parties and the Panel to go through the expense and time commitment of this IRP because GCCIX does not have the legal status to pursue an IRP and cannot engage in the commercial activities necessary to operate a gTLD. ICANN respectfully requests the Panel dismiss GCCIX’s Second Amended IRP Request with prejudice.

Respectfully submitted,

JONES DAY

Dated: 5 April 2024

By: /s/ Jeffrey A. LeVee
Jeffrey A. LeVee

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