

No. 16-55693

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

DOTCONNECTAFRICA TRUST,

Plaintiff/Appellee,

v.

**INTERNET CORPORATION FOR ASSIGNED
NAMES AND NUMBERS, *et al.***

Defendant/Appellant.

On Appeal from the United States District Court
for the Central District of California, No. 2:16-CV-00862-RGK
The Honorable R. Gary Klausner

**EXCERPTS OF RECORD
VOLUME 2 OF 7
(ER-48-338)**

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No. 16-55693

**IN THE UNITED STATES COURT OF APPEALS
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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	16-CV-00862 RGK (JCx)	Date	June 14, 2016
Title	<i>DotConnectAfrica Trust v. Internet Corporation for Assigned Names and Numbers & ZA Central Registry</i>		

Present: The Honorable	R. GARY KLAUSNER, U.S. DISTRICT JUDGE
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Sharon L. Williams (Not Present)	Not Reported	N/A
Deputy Clerk	Court Reporter / Recorder	Tape No.

Attorneys Present for Plaintiffs:

Not Present

Attorneys Present for Defendants:

Not Present

Proceedings: **(IN CHAMBERS) Order re: Defendant ZACR's Motion to Dismiss (DE 80)**

I. INTRODUCTION

On February 26, 2016, Plaintiff DotConnectAfrica Trust (“Plaintiff”) filed a First Amended Complaint (“FAC”) against Defendants Internet Corporation for Assigned Names and Numbers (“ICANN”), and ZA Central Registry (“ZACR”) (collectively “Defendants”). The FAC alleges the following claims against ZACR: (1) Claim 4: Fraud & Conspiracy to Commit Fraud; (2) Claim 5: Unfair Competition (Violation of Cal. Bus. & Prof. Code. § 17200); (3) Claim 7: Intentional Interference with Contract; and (4) Claim 10: Declaratory Relief (that the registry agreement between ZACR and ICANN is null and void and that ZACR’s application does not meet ICANN standards). This action arises out of a dispute involving the delegation of rights related to the .Africa top-level domain.

Currently before the Court is ZACR’s Motion to Dismiss. For the following reasons, the Court **grants** the motion.

II. FACTUAL BACKGROUND

The following facts are alleged in the Complaint.

Defendant ICANN is the sole organization worldwide that assigns rights to Generic Top-level Domains (“gTLDs”). In 2011, ICANN approved the expansion of the number of gTLDs available to eligible applicants as part of its 2012 Generic Top-Level Domains Internet Expansion Program (“New gTLD Program”). ICANN invited eligible parties to submit applications to obtain the rights to these

various gTLDs. In March 2012, Plaintiff submitted an application to ICANN to obtain the rights to the .Africa gTLD. Plaintiff paid ICANN the mandatory application fee of \$185,000. On February 17, 2014, Defendant ZACR also submitted an application for .Africa.

A. Geographic Name Applications and the Governmental Advisory Committee

ICANN's Applicant Guidebook contains an overview of the application process. According to the Guidebook, applicants for geographic gTLDs must obtain endorsements from 60% of the national governments in the region and no more than one written objection from the relevant governments or public authorities associated with the region. Plaintiff obtained endorsements of the United Nations Economic Commission for Africa ("UNECA") in August 2008 and the African Union Commission ("AUC") in August 2009. In 2010, however, AUC sent a letter informing Plaintiff that it had "reconsidered its approach" and "no longer endorses individual initiatives in this matter related to continental resource." (FAC ¶ 24, ECF No. 10.) The Guidebook states that a government may withdraw its endorsement only if the conditions of its endorsement have not been satisfied. Contrary to ICANN's contentions, Plaintiff maintains that the AUC letter did not formally withdraw its endorsement of Plaintiff because AUC did not have conditions on its endorsement.

On behalf of ICANN, InterConnect Communications ("ICC") performs string similarity and geographic review during the initial evaluation stage of the gTLD application process. ICC explained to ICANN that if the endorsements of regional organizations like AUC and UNECA were not applied toward the 60% requirement, neither Plaintiff nor Defendant ZACR would have sufficient geographic support. ICANN decided to accept endorsements from both AUC and UNECA. During its initial evaluation, the ICC was required to inform applicants of any problems with their endorsements. The ICC failed to inform Plaintiff of any such problems. Therefore Plaintiff assumed that its endorsements from AUC and UNECA were sufficient.

In 2011, AUC itself, attempted to obtain the rights to .Africa by requesting ICANN to include .Africa in the list of Top-Level Reserved Names, which would have made .Africa unavailable for delegation under the New gTLD Program. In March 8, 2012, ICANN explained to AUC that ICANN could not reserve .Africa for AUC's use. However, ICANN explained, AUC could "play a prominent role in determining the outcome of any application" for .Africa as a public authority associated with the continent by (1) filing one written statement of objection, (2) filing a community objection, or (3) utilizing the Governmental Advisory Committee ("GAC") to combat a competing application. (FAC ¶ 69, ECF No. 10.) The Governmental Advisory Committee ("GAC") is an internal committee that considers applicants and provides advice related to governmental concerns. Under ICANN's rules, the GAC can recommend that ICANN cease reviewing an application if all of the GAC members agree that an application should not proceed because an applicant is sensitive or problematic. Membership on the GAC is open to representatives of all national governments. AUC became a GAC member in June 2012, apparently on the advice of ICANN.

Because AUC could not obtain .Africa directly through ICANN, AUC contracted with ZACR in March 2014. In exchange for AUC's endorsement, ZACR would assign to AUC all rights relating to .Africa upon its delegation to ZACR. Subsequently, because of AUC's interest in ZACR's application for .Africa, AUC used its influence as a GAC member to campaign against Plaintiff's application. In June 2013, ICANN accepted the GAC's advice and rejected Plaintiff's application for lacking the requisite endorsements. This decision was made amid Plaintiff's objection that several members of the GAC had conflicts of interest and that Kenya was unrepresented at the GAC meeting. Contrary to ICANN's contentions, Plaintiff maintains that the lack of unanimous support within the GAC rendered the decision to suspend Plaintiff's application improper.

Plaintiff further argues that, if ICANN applied the GAC's rationale for rejecting Plaintiff's

application equally to ZACR, ZACR's application should have failed as well. Specifically, applying the same standards, ZACR did not have sufficient country specific endorsements to meet ICANN's requirements: (1) only five of the purported endorsement letters from specific African governments referenced ZACR by name; and (2) ZACR filed support letters in which African governments generally endorsed AUC's "Reserved Names" initiative without specifically referencing ZACR. ZACR presumably passed the 60% threshold requirement based on the same regional endorsements that the GAC used to derail Plaintiff's application. Nonetheless, ZACR passed the initial evaluation and entered into the delegation phase with ICANN.

B. The Independent Review Process

As a means to challenge ICANN's actions with respect to gTLD applications, ICANN provides applicants with an independent review process ("IRP"). The IRP is arbitration comprised of an independent panel of arbitrators. In October 2013, Plaintiff sought an IRP to review ICANN's processing of its application, including ICANN's handling of the GAC opinion. In its decision, the IRP Panel found against ICANN as follows: (1) ICANN's actions and inactions with respect to Plaintiff's application were inconsistent with ICANN's bylaws and articles of incorporation; and (2) ICANN should refrain from delegating .Africa and permit Plaintiff's application to proceed through the remainder of the evaluation process.

Plaintiff asserts that ICANN did not act in accordance with the decision, which was binding. Instead of allowing Plaintiff's application to proceed through the remainder of the application process (i.e. the delegation phase), ICANN restarted Plaintiff's application from the beginning and re-reviewed its endorsements. In September 2015, during the second review, ICANN issued clarifying questions regarding Plaintiff's endorsements, which it did not raise during the initial evaluation of these same endorsements. The Plaintiff requested an extended evaluation, hoping to gain insight on what was wrong with its application. Rather than providing clarification, ICANN merely restated the same questions – allegedly as a pretext to deny Plaintiff's application – then denied Plaintiff's application in February 2016. Soon thereafter, ICANN began the process of delegating .Africa to ZACR.

On March 4, 2016, the Court issued a Temporary Restraining Order to prevent ICANN from delegating .Africa to ZACR. On April 12, 2016, the Court granted Plaintiff's Motion for Preliminary Injunction and enjoined ICANN from delegating the rights to .Africa until this case is resolved.

III. JUDICIAL STANDARD

"A pleading that states a claim for relief must contain . . . a short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). Under Rule 12(b)(6), a party may move to dismiss for failure to state a claim upon which relief can be granted. "To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2004)). A court deciding a Rule 12(b)(6) motion must accept as true all factual allegations in the complaint, but need not accept mere legal conclusions or bare recitations of the elements of a claim. *Twombly*, 550 U.S. at 555. A claim is facially plausible when there are sufficient factual allegations, viewed in the light most favorable to the plaintiff, to draw a reasonable inference that the defendant is liable for the misconduct alleged. *Iqbal*, 556 U.S. at 678; *Barker v. Riverside Cnty. Office of Educ.*, 584 F.3d 821, 824 (9th Cir. 2009).

IV. DISCUSSION

ZACR moves to dismiss each of the four claims Plaintiff has asserted against it. The Court addresses each claim in turn.

A. Claim 4: Fraud and Conspiracy to Commit Fraud

To state a claim for fraud, a plaintiff must allege (1) a false representation; (2) knowledge of the falsity; (3) intent to induce reliance; (4) justifiable reliance; and (5) resulting damage. *Lazar v. Superior Court*, 12 Cal. 4th 631, 638 (1996). Moreover, allegations of fraud must meet the heightened pleading requirement of Federal Rule of Civil Procedure 9(b). Rule 9(b) requires a party to state with particularity the circumstances constituting fraud. *See Vess v. Ciba-Geigy Corp USA*, 317 F.3d 1097, 1107 (9th Cir. 2003). This standard requires a plaintiff to state the time, place, and content of the alleged misrepresentation and explain why the statement is false or misleading. *In re GlenFed*, 42 F.3d 1541, 1547-48 (9th Cir. 1994).

Here, with respect to ZACR, Plaintiff alleges the following: (1) ZACR and AUC conspired to obtain the .Africa rights (FAC, ¶¶27 and 91); (2) ZACR stated that AUC should not endorse Plaintiff because it was not a community organization, even though Plaintiff need not be a community organization to apply (FAC, ¶ 28); (3) ZACR represented that it was applying for .Africa on behalf of the African community, but instead submitted a “standard” application (FAC, ¶¶ 31, 85, and 92); (4) ZACR misrepresented to ICANN that it had (a) the requisite number of government endorsements, and (b) the requisite financial capability to operate as a gTLD operator (FAC, ¶ 32); (5) ZACR and AUC caused the GAC to advise against Plaintiff’s application (FAC, ¶ 44); and (6) ZACR violated the rules and procedures for acquiring the delegation rights (FAC, ¶¶ 87 and 91).

Upon review, the Court finds the allegations fail to state a claim for fraud. Specifically, the allegations fail to support either a false representation, intent by ZACR to induce Plaintiff’s reliance on any false representations, or Plaintiff’s justifiable reliance on those representations. Therefore, the Court **grants** ZACR’s motion as to this claim.

B. Claim 7: Intentional Interference With Contract

Intentional interference with contract requires the following elements: (1) a valid contract between the plaintiff and a third party; (2) defendant’s knowledge of this contract; (3) defendant’s intentional acts designed to induce a breach or disruption of the contractual relationship; (4) actual breach or disruption of the contractual relationship; and (5) resulting damages. *Quelimane Co. v. Stewart Title Guar. Co.*, 19 Cal. 4th 26, 55 (1998).

The FAC alleges that the Guidebook constituted a contract between Plaintiff and ICANN. (FAC ¶ 109.) Plaintiff alleges that ICANN breached this contract by (1) improperly advising AUC on how to defeat other .Africa applications; (2) preventing Plaintiff’s application from proceeding through the review process; (3) failing to abide by the results of the IRP process; (4) failing to permit competition for .Africa by abusing its regulatory authority in its differential treatment of ZACR; (5) working with an independent evaluator to ensure that ZACR passed a crucial evaluation process; (6) failing to conduct the necessary due diligence into recommendations and decisions by its own advisory councils; and (7) sending steady messages to ICANN’s Board that it must ensure that nothing interferes with the delegation of .Africa to ZACR. (FAC, ¶¶ 67-70.) As to ZACR’s conduct, Plaintiff sets forth the allegations discussed in Section IV.A., above. Even if Plaintiff adequately alleges a breach of contract by ICANN, the allegations related to ZACR’s merely show conduct intending to induce ICANN to delegate the .Africa rights to ZACR. As to intentionally inducing a breach or disruption of the contract in the manner alleged above, the allegations of ZACR’s conduct fall short of supporting this claim.

The Court **grants** ZACR's motion as to this claim.

C. Claim 5: Unfair Competition (§17200)

Plaintiff's §17200 claim is based on the "conduct alleged [in the FAC that] constitutes unlawful, unfair, or fraudulent business acts or practices." (FAC, ¶ 97.) Upon review of the allegations, the Court finds no alleged conduct distinct from those purportedly giving rise to the other claims asserted against ZACR. As discussed above, Plaintiff's allegations fail to adequately state any of the other substantive claims for relief set forth in the FAC. Therefore, the Court finds that Plaintiff's Unfair Competition claim fails as well.

The Court **grants** ZACR's motion as to this claim.

D. Claim 10: Declaratory Relief

In its tenth claim, Plaintiff seeks declarations from the Court that (1) the registry agreement between ZACR and ICANN be declared null and void; and (2) that ZACR's application does not meet ICANN's standards.

It is well-established that declaratory relief requires the existence of an actual, present controversy over a proper subject. *Otay Land Co. v. Royal Indem. Co.*, 169 Cal. App. 4th 556, 552 (2008). In determining whether this standard has been met, a court must evaluate the nature of the rights asserted by the plaintiff. Those assertion of rights must follow some recognized or cognizable legal theories related to subject matter properly before the court. *Id.* at 563. As an equitable form of remedy, a claim for declaratory relief is not a stand-alone claim, but rather depends upon whether the plaintiff states some other substantive basis for liability. *Glue-Fold, Inc. v. Slautterback Corp.*, 82 Cal. App. 4th 1018,

As a threshold matter, Plaintiff has failed to state any other substantive basis for liability against ZACR. The claim for declaratory relief fails on this basis alone. Additionally, however, the Court finds Plaintiff's first request against ZACR (*i.e.*, that the Court declare the registry agreement null and void) unnecessary, as a favorable ruling on its claims against ICANN will result in the relief it seeks. As to the second request (*i.e.*, that the Court declare that ZACR's application does not meet ICANN's standards), the Court finds that regardless of the existence of a separate substantive basis for liability, there is an insufficient nexus between the relief requested and the alleged wrongful conduct.

The Court **grants** ZACR's motion as to this claim.

V. CONCLUSION

For the foregoing reasons, the Court **GRANTS** ZACR's Motion to Dismiss.

IT IS SO ORDERED.

_____ : _____
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12 **UNITED STATES DISTRICT COURT**
 13 **CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION**

14 DOTCONNECTAFRICA TRUST, a
 15 Mauritius Charitable Trust,
 16
 17 Plaintiff,
 18
 19 v.
 20 INTERNET CORPORATION FOR
 21 ASSIGNED NAMES AND
 22 NUMBERS; a California corporation;
 23 ZA Central Registry, a South African
 24 non-profit company; DOES 1 through
 25 50, inclusive,
 26
 27 Defendants.

CASE NO. 2:16-cv-00862 RGK (JCx)
*Assigned for all purposes to the
 Honorable R. Gary Klausner*

**SUPPLEMENTAL DECLARATION
 OF MOKGABUDI LUCKY
 MASILELA IN SUPPORT OF
 ZACR’S MOTION TO
 RECONSIDER AND VACATE
 PRELIMINARY INJUNCTION
 RULING**

[Filed concurrently with: Reply ISO of Motion to Reconsider and Vacate Preliminary Injunction; Consolidated Evidentiary Objections to Declaration of Sophia Bekele Eshete; Consolidated Evidentiary Objections to Declaration of Sarah Colon; Response to Plaintiff’s Evidentiary Objections to Declaration of Mokgabudi Lucky Masilela; and Declaration of Akram Atallah ISO of Motion]

Date: June 6, 2016
 Time: 9:00 a.m.
 Location: Courtroom 850

1 dollars). These estimates were configured by ZACR's finance section. A true and
2 correct copy of a summary of the breakdown of ZACR's opportunity costs are
3 included in the attached Exhibit A. The estimated number of registration numbers
4 are based on ZACR's responses to ICANN's 2012 application questions 46 – 50.
5 ZACR researched these numbers at the time of application and the application
6 passed ICANN evaluation. To be conservative, ZACR revised down some of
7 these numbers based on trends in the launch of other new gTLDs.

8 4. My email address is Contact Information Redacted I have never used the
9 email address lmasilela@registry.za.net.

10 5. Attached as **Exhibit B** are true and correct copies of exemplar
11 printouts of redelegations including gTLDs, from the Internet Assigned Numbers
12 Authority ("IANA") website, <https://www.iana.org/reports>. Additional examples
13 can be found on the website.

14 6. Attached hereto as **Exhibit C** are true and correct copies of printouts
15 from the following websites which discuss redelegation of gTLDs:
16 [http://domainincite.com/18849-you-might-be-surprised-how-many-new-gtlds-](http://domainincite.com/18849-you-might-be-surprised-how-many-new-gtlds-have-changed-hands-already)
17 [have-changed-hands-already; http://domainincite.com/20235-minds-machines-](http://domainincite.com/20235-minds-machines-dumps-back-end-and-registrar-in-nominet-uniregistry-deals)
18 [dumps-back-end-and-registrar-in-nominet-uniregistry-deals;](http://www.afilias.info/news/2003/01/02/public-interest-registry-assumes-control-org-domain-name-registry)
19 [http://www.afilias.info/news/2003/01/02/public-interest-registry-assumes-control-](http://www.afilias.info/news/2003/01/02/public-interest-registry-assumes-control-org-domain-name-registry)
20 [org-domain-name-registry.](http://www.afilias.info/news/2003/01/02/public-interest-registry-assumes-control-org-domain-name-registry)

21 7. Attached hereto as **Exhibit D** is a true and correct copy of the
22 Geographic Names Panel Clarifying Questions submitted by ICANN's
23 Geographic Names Panel to ZACR during the application process relating to
24 deficiencies in the letter of support from the African Union dated April 4, 2012.
25 The updated letter of support from the AUC was submitted on or about July 2,

26 //

27 //

28

1 2013, as referenced as Exhibit A to my May 6, 2016 Declaration.

2 I declare under penalty of perjury under the laws of the United States of
3 America that the foregoing is true and correct.

4 Executed this 23 day of May 2016 at MIDRAND.

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MOKGABUDI LUCKY MASILELA

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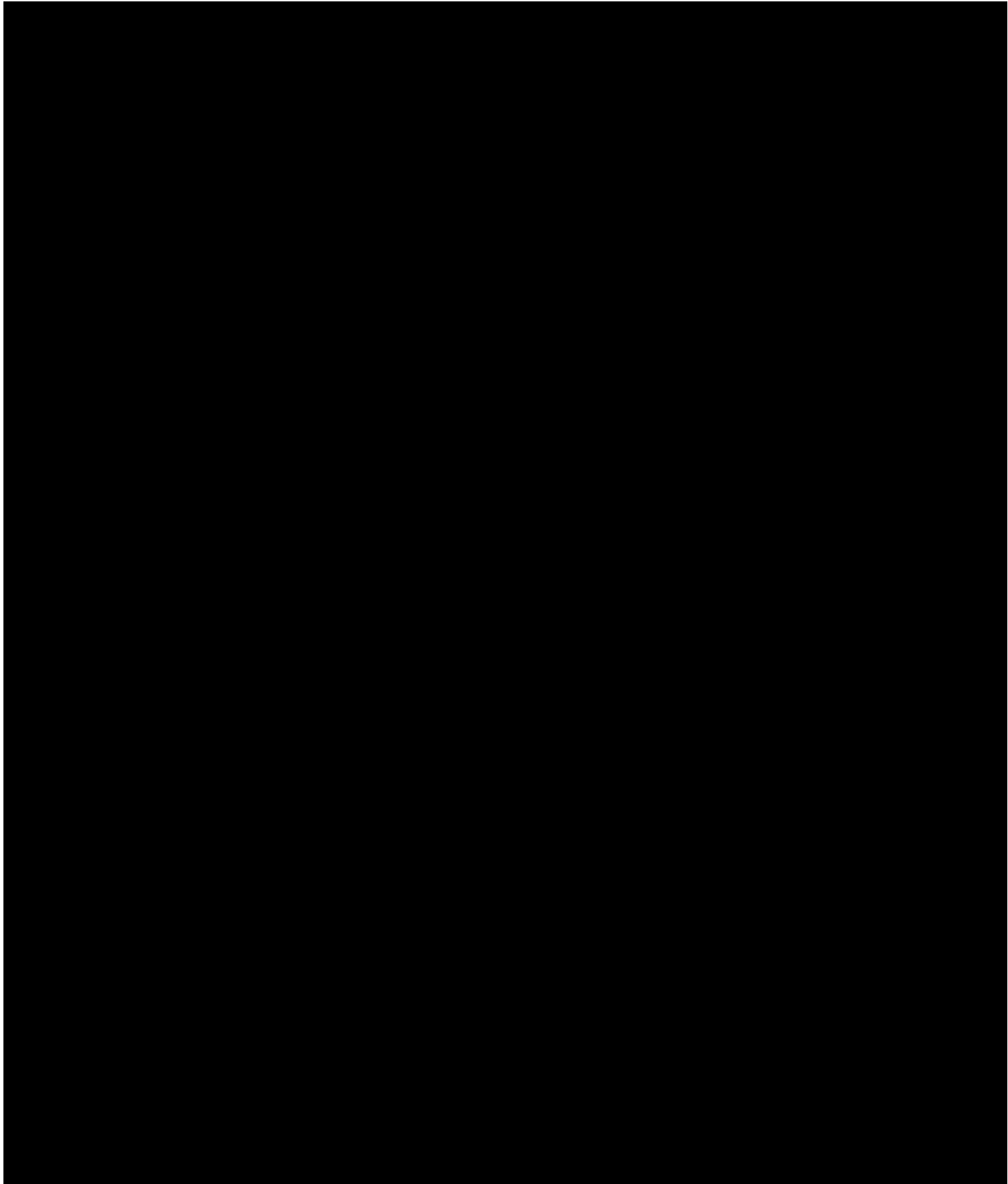
25

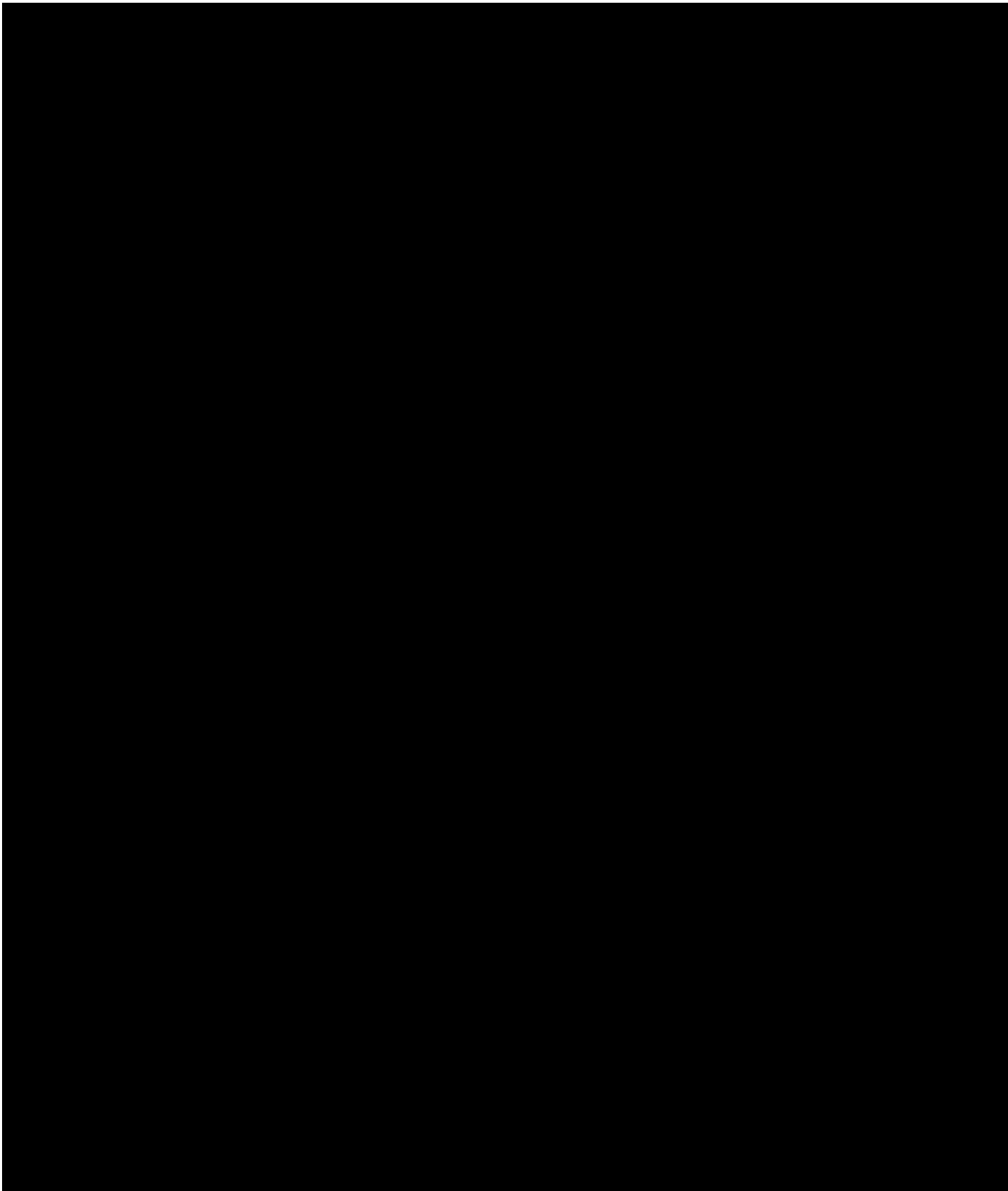
26

27

28

EXHIBIT A





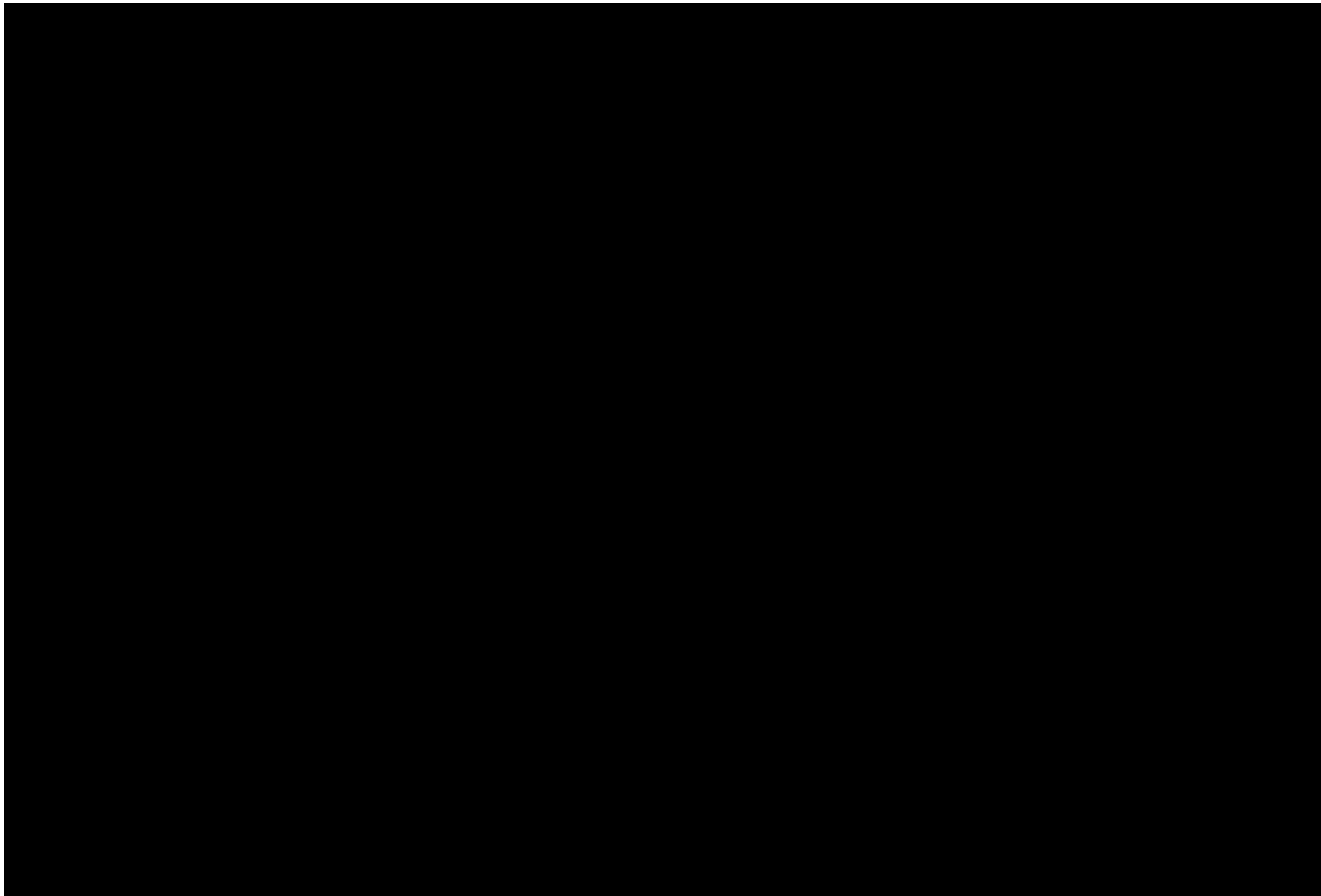


EXHIBIT B



Internet Assigned Numbers Authority

DOMAINS NUMBERS PROTOCOLS ABOUT IANA

About IANA

- Introduction to IANA
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Report on the Redlegation of the .MK domain and Delegation of the .mkд domain representing the Former Yugoslav Republic of Macedonia to Macedonian Academic Research Network Skopje

26 September 2014

This report is being provided under the contract for performance of the Internet Assigned Numbers Authority (IANA) function between the United States Government and the Internet Corporation for Assigned Names and Numbers (ICANN). Under that contract, ICANN performs the "IANA functions", which include receiving delegation and redelegation requests concerning TLDs, investigating the circumstances pertinent to those requests, making its recommendations, and reporting actions undertaken in connection with processing such requests.

Factual Information

Country

The "MK" ISO 3166-1 code is designated for use to represent the Former Yugoslav Republic of Macedonia.

String

This report discusses two strings:

1. The "MK" string, under consideration for redelegation, represents the ISO 3166-1 alpha-2 code for the Former Yugoslav Republic of Macedonia.
2. The "mkд" string, under consideration for delegation, is represented in ASCII-compatible encoding according to the IDNA specification as "xn-d1alf". The individual Unicode code points that comprise this string are U+043C U+043A U+0434. The string transliterates to "mkd" in English. The string is expressed using the Cyrillic script.

Chronology of events

The following report presents findings on the request to redelegate the .MK country code top-level domain and the request to delegate the "mkд" string as a country code top-level domain representing the Former Yugoslav Republic of Macedonia. The report combines both requests, as most of the documentation presented for each is identical.

The currently designated manager for the .MK top-level domain is the Ministry of Foreign Affairs, as described in the IANA Root Zone Database.

The Ministry of Foreign Affairs was the designated domain manager when the ccTLD .MK was delegated, however, the Macedonian Academic Research Network (MARnet), a department of the Computer Center at the Saints Cyril and Methodius University in Skopje, who performed the actual operations and management of .MK.

In January 2011, as the responsibilities for managing the .MK ccTLD grew, a new public entity named Macedonian Academic Research Network Skopje was formed. Macedonian Academic Research Network Skopje is the proposed sponsoring organization in this request. As a separate public entity, the Macedonian Academic Research Network Skopje is responsible for developing, organizing and managing the telecommunication network in the Former Yugoslav Republic of Macedonia, as well as managing the .MK top-level domain.

The Macedonian Academic Research Network Skopje continued the work of MARnet in managing the .MK ccTLD with the same technical and administrative staff.

In its efforts to establish the IDN ccTLD for the Former Yugoslav Republic of Macedonia, the Macedonian Academic Research Network Skopje facilitated a consensus-building process that resulted in the selection of .mkd as the string to represent the Former Yugoslav Republic of Macedonia. The string "mkd" in the Cyrillic script represent the letters "mkd" in the Latin script. The string selection process had a suggestion-gathering period from 29 November 2012 to 3 December 2012, and a voting period from 15 December 2012 to 15 January 2013.

On 3 September 2013, Macedonian Academic Research Network Skopje applied for string .mkd to represent the Former Yugoslav Republic of Macedonia through the IDN ccTLD Fast Track process.

On 14 April 2014, review by the IDN Fast Track DNS Stability Panel found that "the applied-for strings ... present none of the threats to the stability or security of the DNS identified in [the IDN Fast Track implementation plan] ... and present an acceptably low risk of user confusion". The request for the string to represent the Former Yugoslav Republic of Macedonia was subsequently approved.

In April 2014, the Macedonian Academic Research Network Skopje commenced a request to ICANN for the redefinition of the .MK top-level domain and the delegation of the .mkd top-level domain.

Proposed Sponsoring Organization and Contacts

The proposed sponsoring organization and contacts are the same for both .mk and .mkd.

The proposed sponsoring organization is the Macedonian Academic Research Network Skopje, a public entity established in the Former Yugoslav Republic of Macedonia.

The proposed administrative contact is Sasho Dimitrijoski, Director of the Macedonian Academic Research Network Skopje. The administrative contact is understood to be based in the Former Yugoslav Republic of Macedonia.

The proposed technical contact is Novak Novakov, Responsible in the DNS department, Macedonian Academic Research Network Skopje.

Evaluation of the Request

String Eligibility

The .MK string is eligible for continued delegation under ICANN policy, as the Former Yugoslav Republic of Macedonia is presently listed in the ISO 3166-1 standard with the assigned code MK.

The .mkd string has been deemed an appropriate representation of the Former Yugoslav Republic of Macedonia through the ICANN Fast Track String Selection process.

Public Interest

Support statements for the applications to redelegate .MK and delegate .mkd were provided by Ivo Ivanovski, the Minister of Information Society and Administration. Additional statements in support of both the redefinition and delegation requests were provided by the following:

- Zoran Petrov, the Deputy Minister of the Ministry of Foreign Affairs;
- Sinisha Naumoski, a representative of Academy of Banking and Information Technology Skopje;
- Gjore Dimov, director of PROCESS IN, an agency of intellectual and IT services and marketing;
- Blage Petrusevski, manager of MKhost, a web hosting company who also engages in domain registration and web development;
- Aneta Antova Peseva, CEO of ULTRANET DOO Skopje, an Internet service provider;
- Nenad Fidanovski, CEO of Global Net, a company specializes in software development; and
- Zoran Sapkarev, IT manager of ONE Telecommunications, a telecommunications service provider.

The applications are consistent with known applicable local laws in the Former Yugoslav Republic of Macedonia.

The proposed sponsoring organization undertakes responsibility to operate the domains in a fair and equitable manner.

Based in country

The proposed sponsoring organization is constituted in the Former Yugoslav Republic of Macedonia. The proposed administrative contact is understood to be resident in the Former Yugoslav Republic of Macedonia. The registry is to be operated in the country.

Stability

The redlegation request is deemed uncontested, with the currently listed sponsoring organization consenting to the transfer.

Based on the information submitted, ICANN staff has not identified any stability issues that would warrant a transfer plan given the substantive operation is not changing. Macedonian Academic Research Network Skopje has been managing the .MK ccTLD since its initial delegation, at first under the name of "Macedonian Academic Research Network (MARnet)", and later on as the Macedonian Academic Research Network Skopje after its establishment as a public entity. The latter continued managing this domain with the same technical and administrative staff.

Competency

The application has provided satisfactory details on the technical and operational infrastructure and expertise that will be used to operate the .MK and .mkд domains. Proposed policies for management of the domains have also been tendered.

Evaluation Procedure

ICANN is tasked with coordinating the Domain Name System root zone as part of a set of functions governed by a contract with the U.S. Government. This includes accepting and evaluating requests for delegation and redlegation of top-level domains.

A subset of top-level domains are designated for the local Internet communities in countries to operate in a way that best suits their local needs. These are known as country-code top-level domains (ccTLDs), and are assigned by ICANN to responsible trustees (known as "Sponsoring Organisations") that meet a number of public-interest criteria for eligibility. These criteria largely relate to the level of support the trustee has from its local Internet community, its capacity to ensure stable operation of the domain, and its applicability under any relevant local laws.

Through ICANN's IANA department, requests are received for delegating new ccTLDs, and redelegating or revoking existing ccTLDs. An investigation is performed on the circumstances pertinent to those requests, and, when appropriate, the requests are implemented and a recommendation for delegation or redlegation is made to the U.S. National Telecommunications and Information Administration (NTIA).

Purpose of evaluations

The evaluation of eligibility for ccTLDs, and of evaluating responsible trustees charged with operating them, is guided by a number of principles. The objective of the assessment is that the action enhances the secure and stable operation of the Internet's unique identifier systems.

In considering requests to delegate or redelegate ccTLDs, input is sought regarding the proposed new Sponsoring Organisation, as well as from persons and organisations that may be significantly affected by the change, particularly those within the nation or territory to which the ccTLD is designated.

The assessment is focussed on the capacity for the proposed sponsoring organisation to meet the following criteria:

- The domain should be operated within the country, including having its sponsoring organisation and administrative contact based in the country.
- The domain should be operated in a way that is fair and equitable to all groups in the local Internet community.
- Significantly Interested parties in the domain should agree that the prospective trustee is the appropriate party to be responsible for the domain, with the desires of the national government taken very seriously.
- The domain must be operated competently, both technically and operationally. Management of the domain should adhere to relevant technical standards and community best practices.
- Risks to the stability of the Internet addressing system must be adequately considered and addressed, particularly with regard to how existing identifiers will continue to function.

Method of evaluation

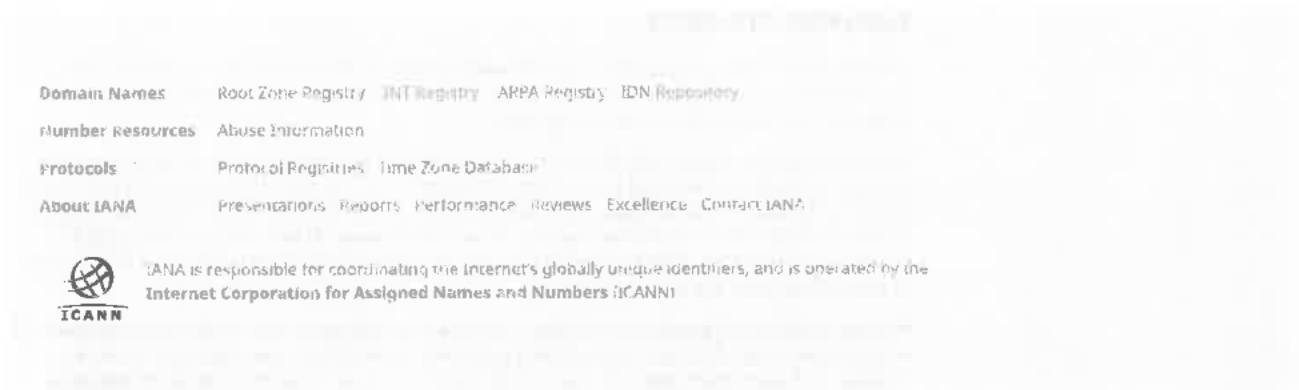
To assess these criteria, information is requested from the applicant regarding the proposed sponsoring organisation and method of operation. In summary, a request template is sought specifying the exact details of the delegation being sought in the root zone. In addition, various documentation is sought describing: the views of the local Internet community on the application; the competencies and skills of the trustee to operate the domain; the legal authenticity, status and character of the proposed trustee; and the nature of government support for the proposal. The view of any current trustee is obtained, and in the event of a redlegation, the transfer plan from the previous sponsoring organisation to the new sponsoring organisation is also assessed with a view to ensuring ongoing stable operation of the domain.

Case 2:16-cv-00862-RGK-JC Document 97-3 Filed 05/23/16 Page 5 of 21 Page ID #:4256
5/21/2016 IANA — Report on the Redlegation of the .MK domain and Delegation of the .mk domain representing the Former Yugoslav Republic of Macedonia to vl...

After receiving this documentation and input, it is analysed in relation to existing root zone management procedures, seeking input from parties both related to as well as independent of the proposed sponsoring organisation should the information provided in the original application be deficient. The applicant is given the opportunity to cure any deficiencies before a final assessment is made.

Once all the documentation has been received, various technical checks are performed on the proposed sponsoring organisation's DNS infrastructure to ensure name servers are properly configured and are able to respond to queries correctly. Should any anomalies be detected, ICANN staff will work with the applicant to address the issues.

Assuming all issues are resolved, an assessment is compiled providing all relevant details regarding the proposed sponsoring organisation and its suitability to operate the relevant top-level domain.





Internet Assigned Numbers Authority

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- [Public Reports](#)
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- [Reviews](#)
- [Audits](#)
- [Excellence & Quality](#)
- [Glossary of terms](#)
- [Contact us](#)

Redelegation Report for .wang

2014-06-16

This report is produced in accordance with Section C.2.9.2.d of Contract Number SA130112CN0035 for the performance of the Internet Assigned Numbers Authority functions. Under the contract, ICANN verifies that all requests relating to the delegation and redelegation of generic top-level domains are consistent with the procedures developed by ICANN. Documentation is provided verifying that ICANN followed its own policy framework including specific documentation demonstrating how the process provided the opportunity for input from relevant stakeholders and was supportive of the global public interest.

Summary

Applicant matches approved party Yes
 Contact Confirmations Completed
 Technical Conformance Completed
 Other processing Completed

Domain information

Label **wang** This reflects the label managed in the DNS root zone, also known as the top-level domain. It is used by end-users in applications and in technical configuration management.

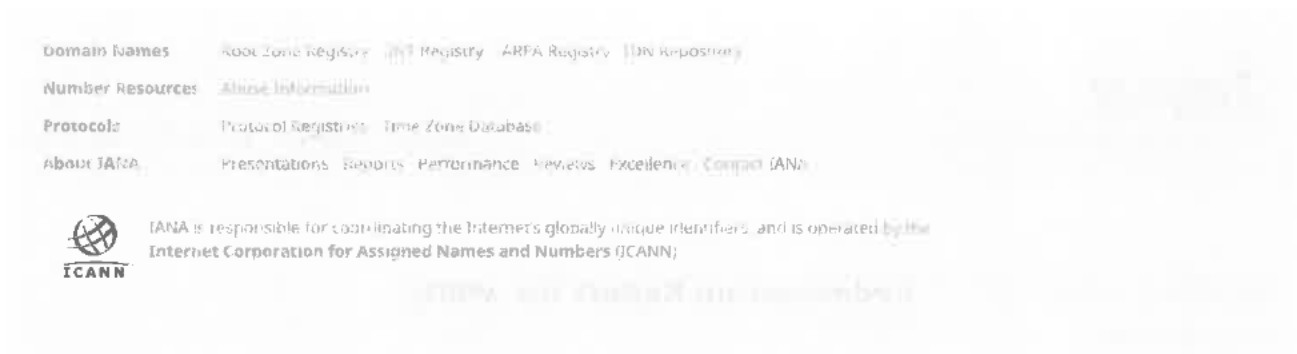
Applicant information

The proposed sponsoring organisation for this domain is:

Zodiac Registry Limited
 Block B Unit 403
 Horizon International Tower
 No. 6 Zhichun Road
 Haidian District Beijing 100088
 China

IANA change request eligibility

Applicant matches the contracted party — The entity listed as the "sponsoring organisation" in the Root Zone Database has overall responsibility for managing the delegation details with the IANA functions. The entity proposed as sponsoring organisation must match the currently contracted party authorised to operate the domain by ICANN.	Matches	✓
Contact confirmations — The proposed points-of-contact for the domain must confirm their details are correct and agree to responsibility for management of the domain.	Completed	✓
Technical conformance — The proposed technical configuration of the domain must pass a number of minimum technical requirements in order to be listed in the DNS Root Zone.	Completed	✓
Other requirements — The request must pass a number of procedural checks conducted for all root zone changes in order to be transmitted for authorisation and implementation.	Completed	✓





Internet Assigned Numbers Authority

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Redelegation Report for .Itida

2014-08-28

This report is produced in accordance with Section C.2.9.2.d of Contract Number SA130112CN0035 for the performance of the Internet Assigned Numbers Authority functions. Under the contract, ICANN verifies that all requests relating to the delegation and redelegation of generic top-level domains are consistent with the procedures developed by ICANN. Documentation is provided verifying that ICANN followed its own policy framework including specific documentation demonstrating how the process provided the opportunity for input from relevant stakeholders and was supportive of the global public interest.

Summary

Applicant matches approved party Yes
 Contact Confirmations Completed
 Technical Conformance Completed
 Other processing Completed

Domain information

Label	Itida	This reflects the label managed in the DNS root zone, also known as the top-level domain. It is used by end-users in applications and in technical configuration management.
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Applicant information

The proposed sponsoring organisation for this domain is:

InterNetX Corp.
 601 Brickell Key Drive, Suite 1020
 Miami, FL 33131
 United States

IANA change request eligibility

Applicant matches the contracted party — The entity listed as the "sponsoring organisation" in the Root Zone Database has overall responsibility for managing the delegation details with the IANA functions. The entity proposed as sponsoring organisation must match the currently contracted party authorised to operate the domain by ICANN.	Matches	✓
Contact confirmations — The proposed points-of-contact for the domain must confirm their details are correct and agree to responsibility for management of the domain.	Completed	✓
Technical conformance — The proposed technical configuration of the domain must pass a number of minimum technical requirements in order to be listed in the DNS Root Zone.	Completed	✓
Other requirements — The request must pass a number of procedural checks conducted for all root zone changes in order to be transmitted for authorisation and implementation.	Completed	✓

Case 2:16-cv-00862-RGK-JC Document 97-3 Filed 05/23/16 Page 9 of 21 Page ID #:4260

5/21/2016

IANA — Redelegation Report for .ltda

The screenshot shows the IANA website navigation menu with the following items: Domain Names (Root Zone Registry, IN: Registry, ARPA Registry, IDN Repository), Number Resources (Abuse information), Protocols (Protocol Registries, Time Zone Database), and About IANA (Presentations, Reports, Performance Reviews, Excellence, CONTACT IANA). Below the menu is the ICANN logo and the text: "IANA is responsible for coordinating the Internet's globally unique identifiers, and is operated by the Internet Corporation for Assigned Names and Numbers (ICANN)." The background of the screenshot is a light blue and white pattern.



Internet Assigned Numbers Authority

DOMAINS NUMBERS PROTOCOLS ABOUT IANA

About IANA

- Introduction to IANA
- Performance Reporting
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- Excellence & Quality
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- Contact us

Redelegation Report for .reise

2015-06-12

This report is produced in accordance with Section C.2.9.2.d of Contract Number SA130112CN0035 for the performance of the Internet Assigned Numbers Authority functions. Under the contract, ICANN verifies that all requests relating to the delegation and redelegation of generic top-level domains are consistent with the procedures developed by ICANN. Documentation is provided verifying that ICANN followed its own policy framework including specific documentation demonstrating how the process provided the opportunity for input from relevant stakeholders and was supportive of the global public interest.

Summary

Applicant matches approved party Yes
 Contact Confirmations Completed
 Technical Conformance Completed
 Other processing Completed

Domain information

Label	reise	This reflects the label managed in the DNS root zone, also known as the top-level domain. It is used by end-users in applications and in technical configuration management.
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Applicant information

The proposed sponsoring organisation for this domain is:

Foggy Way, LLC
 c/o Donuts Inc.
 10500 NE 8th Street, Suite 350
 Bellevue, Washington 98004
 United States

IANA change request eligibility

Applicant matches the contracted party — The entity listed as the "sponsoring organisation" in the Root Zone Database has overall responsibility for managing the delegation details with the IANA functions. The entity proposed as sponsoring organisation must match the currently contracted party authorised to operate the domain by ICANN.	Matches	✓
Contact confirmations — The proposed points-of-contact for the domain must confirm their details are correct and agree to responsibility for management of the domain.	Completed	✓
Technical conformance — The proposed technical configuration of the domain must pass a number of minimum technical requirements in order to be listed in the DNS Root Zone.	Completed	✓
Other requirements — The request must pass a number of procedural checks conducted for all root zone changes in order to be transmitted for authorisation and implementation.	Completed	✓

5/21/2016

IANA — Relegation Report for .reise
#4262

The screenshot shows the top navigation menu of the IANA website. The menu items are: Domain Names (with sub-links: Root Zone Registry, TLD Registry, ARPA Registry, IDN Repository), Number Resources (with sub-link: Abuse Information), Protocols (with sub-link: Protocol Registries, Time Zone Database), and About IANA (with sub-links: Presentations, Reports, Performance, Reviews, Experience, Contact IANA). Below the menu is the ICANN logo and a paragraph of text: "IANA is responsible for coordinating the Internet's globally unique identifiers, and is operated by the Internet Corporation for Assigned Names and Numbers (ICANN)." The background of the screenshot is a light gray with a faint, large watermark that reads "Administrative Report for .reise".



Internet Assigned Numbers Authority

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Report on the Redefinition of the .TG domain representing Togo to the Autorite de Reglementation des Secteurs de Postes et de Telecommunications (ART&P)

18 January 2016

This report is being provided under the contract for performance of the Internet Assigned Numbers Authority (IANA) function between the United States Government and the Internet Corporation for Assigned Names and Numbers (ICANN). Under that contract, ICANN performs the "IANA functions", which include receiving delegation and redelegation requests concerning TLDs, investigating the circumstances pertinent to those requests, making its recommendations, and reporting actions undertaken in connection with processing such requests.

Factual Information

Country

The "TG" ISO 3166-1 code is designated for use to represent Togo.

Chronology of events

The currently designated manager for the .TG top-level domain is Cafe Informatique et Telecommunications, as described in the IANA Root Zone Database. Cafe Informatique et Telecommunications has managed the .TG domain since 1996.

On 11 February 1998, Autorite de Reglementation des Secteurs de Postes et de Telecommunications (ART&P) was created by Telecommunications Act No. 98-005.

On 14 May 2012, Order No. 005/MPT/CAB appointed ART&P the administrative manager of the .TG top-level domain.

On 18 June 2012, a work meeting took place between the commission in charge of the redelegation project and the local Internet community. After an exchange of views, the local Internet community provided support for the redelegation of .TG.

On 13 July 2012, the Togolese government and Cafe Informatique et Telecommunications signed a Memorandum of Understanding to work together on the redelegation of the .TG domain.

On 15 February 2013, Cafe Informatique et Telecommunications agreed to continue performing the role of the technical contact for .TG under the administration of ART&P after the redelegation is complete, to ensure a smooth transition.

On 20 January 2015, Autorite de Reglementation des Secteurs de Postes et de Telecommunications (ART&P) commenced a request to ICANN for redelegation of the .TG top-level domain.

Proposed Sponsoring Organisation and Contacts

The proposed sponsoring organization is Reglementation des Secteurs de Postes et de Telecommunications (ART&P), a national regulatory authority in Togo.

The proposed administrative contact is Abayeh Boyodi, the Chief Executive Officer of ART&P. The administrative contact is understood to be based in Togo.

The proposed technical contact is Yawo Noagbodji, Chief Executive Officer of Cafe Informatique et Telecommunications.

Evaluation of the Request

String Eligibility

The top-level domain is eligible for continued delegation under ICANN policy, as it is the assigned ISO 3166-1 two-letter code representing Togo.

Public Interest

Government support was provided by Cina Lawson, the Minister of Posts and Telecommunications, Republic of Togo.

Additional community support was provided by:

- Azanlekor Ekoué Segla, Resp. Computer Cell, Université Catholique de Afrique de Ouest- Unité Universitaire du Togo (UCAO-UUT);
- Dogba Agbeko, President, Entente des Specialistes des Technologies des TIC (ESTETIC);
- Laba Komlan, Association Togolaise des Consommateurs (ATC);
- Tepe Kossi, Teacher, University of Lome;
- Wallah Palakiyem, Teacher/Researcher, University of Kara;
- Jonathan Fiawoo, President, of the Chamber of Commerce and Industry of Togo.

The application is consistent with known applicable local laws in Togo.

The proposed sponsoring organization undertakes responsibility to operate the domain in a fair and equitable manner.

Based in country

The proposed sponsoring organization is constituted in Togo. The proposed administrative contact is understood to be resident in Togo.

Stability

The request is deemed uncontested, with the currently listed sponsoring organization consenting to the transfer.

Based on the information submitted, ICANN staff has not identified any stability issues given the technical operation is not changing. The currently designated manager has agreed to continue to act as the technical operator of the domain.

Competency

The application has provided satisfactory details on the technical and operational infrastructure and expertise that will be used to operate the .TG domain. Proposed policies for management of the domain have also been tendered.

Evaluation Procedure

ICANN is tasked with coordinating the Domain Name System root zone as part of a set of functions governed by a contract with the U.S. Government. This includes accepting and evaluating requests for delegation and redelegation of top-level domains.

A subset of top-level domains are designated for the local Internet communities in countries to operate in a way that best suits their local needs. These are known as country-code top-level domains (ccTLDs), and are assigned by ICANN to responsible trustees (known as "Sponsoring Organisations") that meet a number of public-interest criteria for eligibility. These criteria largely relate to the level of support the trustee has from its local Internet community, its capacity to ensure stable operation of the domain, and its applicability under any relevant local laws.

Through ICANN's IANA department, requests are received for delegating new ccTLDs, and redelegating or revoking existing ccTLDs. An investigation is performed on the circumstances pertinent to those requests, and, when appropriate, the requests are implemented and a recommendation for delegation or redelegation is made to the U.S. National Telecommunications and Information Administration (NTIA).

Purpose of evaluations

The evaluation of eligibility for ccTLDs, and of evaluating responsible trustees charged with operating them, is guided by a number of principles. The objective of the assessment is that the action enhances the secure and stable operation of the Internet's unique identifier systems.

In considering requests to delegate or redelegate ccTLDs, input is sought regarding the proposed new Sponsoring Organisation, as well as from persons and organisations that may be significantly affected

by the change, particularly those within the nation or territory to which the ccTLD is designated.

The assessment is focussed on the capacity for the proposed sponsoring organisation to meet the following criteria:

- The domain should be operated within the country, including having its sponsoring organisation and administrative contact based in the country.
- The domain should be operated in a way that is fair and equitable to all groups in the local Internet community.
- Significantly interested parties in the domain should agree that the prospective trustee is the appropriate party to be responsible for the domain, with the desires of the national government taken very seriously.
- The domain must be operated competently, both technically and operationally. Management of the domain should adhere to relevant technical standards and community best practices.
- Risks to the stability of the Internet addressing system must be adequately considered and addressed, particularly with regard to how existing identifiers will continue to function.

Method of evaluation

To assess these criteria, information is requested from the applicant regarding the proposed sponsoring organisation and method of operation. In summary, a request template is sought specifying the exact details of the delegation being sought in the root zone. In addition, various documentation is sought describing: the views of the local internet community on the application; the competencies and skills of the trustee to operate the domain; the legal authenticity, status and character of the proposed trustee; and the nature of government support for the proposal. The view of any current trustee is obtained, and in the event of a redelegation, the transfer plan from the previous sponsoring organisation to the new sponsoring organisation is also assessed with a view to ensuring ongoing stable operation of the domain.

After receiving this documentation and input, it is analysed in relation to existing root zone management procedures, seeking input from parties both related to as well as independent of the proposed sponsoring organisation should the information provided in the original application be deficient. The applicant is given the opportunity to cure any deficiencies before a final assessment is made.

Once all the documentation has been received, various technical checks are performed on the proposed sponsoring organisation's DNS Infrastructure to ensure name servers are properly configured and are able to respond to queries correctly. Should any anomalies be detected, ICANN staff will work with the applicant to address the issues.

Assuming all issues are resolved, an assessment is compiled providing all relevant details regarding the proposed sponsoring organisation and its suitability to operate the relevant top-level domain.

Domain Names: [Root Zone Registry](#) [INT Registry](#) [ARPA Registry](#) [ITN's Appendix](#)
 Number Resources: [Abuse Information](#)
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IANA is responsible for coordinating the Internet's globally unique identifiers, and is operated by the Internet Corporation for Assigned Names and Numbers (ICANN).



IANA Report on Redelegation of the .org Top-Level Domain (9 December 2002)

IANA Report

Subject: Redelegation of the .org Top-Level Domain
Date: 9 December 2002

The Internet Assigned Numbers Authority (the IANA) is responsible for various administrative functions associated with management of the Internet's domain-name system root zone, including reviewing the appropriateness of contemplated changes to the content of the root zone and preparing reports on those changes. This report gives the findings and conclusions of the IANA on the redelegation of the .org top-level domain (TLD) from operation by VeriSign, Inc., to operation by Public Interest Registry.

Factual and Procedural Background

A. Background of the .org TLD

The Internet domain-name system (DNS) was deployed under the guidance of Jon Postel in 1984 and 1985 (see RFC 921) as a distributed database for information about resources on the Internet, replacing the prior "hosts.txt" system. The DNS contains resource records that map easy-to-remember domain names to the unique numeric addresses assigned to every computer on the Internet.

The DNS is organized hierarchically with several TLDs containing second-level domains (SLDs), which in turn contain third-level domains (3LDs), etc. A domain name consists of a series of labels, separated by dots, tracing the hierarchy from the top-level domain down to the specific computer being identified: <3LD>.<SLD>.<TLD>. Thus, the domain name "www.icann.org" is within the "www" third-level domain of the "icann" second-level domain of the "org" top-level domain.

As initially deployed, the DNS included both generic top-level domains (gTLDs) and country-code top-level domains (ccTLDs). In RFC 920, entitled "Domain Requirements" (Oct. 1984), Dr. Postel and Joyce Reynolds proposed a set of initial gTLDs including "com" (commercial), "edu" (education), "gov" (government), "mil" (military), and "org" (organization)." By the time of actual implementation of the top-level domains in January 1985, an additional top-level domain named "net" was included.

From the deployment of the DNS until the end of 1992, the gTLDs were managed by SRI International's Network Information Center (SRI-NIC). Beginning in 1993, the registration function within gTLDs was assumed by Network Solutions, Inc. (NSI), under Cooperative

Agreement NCR 92-18742 with the National Science Foundation.

That cooperative agreement was originally scheduled to conclude on 30 September 1998. In June 1998, however, the U.S. Department of Commerce (which took over from the National Science Foundation as the responsible U.S. Government agency) issued a Statement of Policy commonly known as the "White Paper" ("Management of Internet Names and Addresses," 63 Fed. Reg. 31741 (1998)), in which it announced its intention to transition responsibilities for management of the domain name space to a private, not-for-profit corporation (now known as the Internet Corporation for Assigned Names and Numbers, or "ICANN") formed by the Internet community. In connection with the implementation of the White Paper, the NSI-U.S. Government cooperative agreement was extended in October 1998 (by Amendment 11) until 30 September 2000. In 1999, NSI and ICANN reached an agreement that supplemented the cooperative agreement with an ICANN-NSI registry agreement, under which NSI's operatorship of the .com, .net, and .org gTLDs was extended to 10 November 2003 or, if certain conditions were met, 10 November 2007. At the same time, NSI and the U.S. Department of Commerce amended the cooperative agreement to extend for the same period. (Amendment 19 to Cooperative Agreement NCR 92-18742, section I(B)(10).)

In May 2001, the ICANN-NSI registry agreement covering .com, .net, and .org, was replaced with three registry agreements, which separately covered (and had different termination provisions for) the three gTLDs.¹ The registry agreement for .org provided that VeriSign, Inc. (which had acquired NSI) would give up the operatorship of the .org registry on 31 December 2002,² after which a successor registry operator designated by ICANN would assume responsibility for the operation of .org.

B. Process for Selection of a Successor Operator of the .org TLD

At its 4 June 2001 meeting in Stockholm, Sweden, the ICANN Board of Directors referred the issues raised by the scheduled transition of the operation of the .org gTLD to ICANN's Domain Name Supporting Organization (DNSO) Names Council. The Names Council, in turn, formed a working group, which submitted a report that the Names Council unanimously adopted at a meeting on 17 January 2002. The report was posted on the ICANN web site for public comment, and an in-person Public Forum was held on the topic on 13 March 2002 at ICANN's meeting in Accra, Ghana.

At the ICANN Board's meeting on 14 March 2002, the Board authorized the solicitation of proposals to succeed VeriSign as the operator of the .org registry. ICANN then posted, in draft form, a request for proposals, which included the following elements:

- application instructions;
- an application transmittal form;
- a proposal form (with detailed questions to be answered in proposals);
- a fitness disclosure for applicants;
- a form for requesting confidential treatment of submitted materials;
- a statement of criteria for assessing proposals; and
- a draft registry agreement that the selected successor would be expected to enter.

After a two-week comment period, these materials were revised based on the comments received. The final request for proposals was posted on 20 May 2002. In addition, ICANN solicited written questions from prospective bidders, and on 24 May 2002 posted 46

detailed answers to the questions received.

Eleven proposals were received by the 18 June 2002 deadline in response to the request for proposals. Each of these proposals was posted on the ICANN web site, and public comments were invited.³ A special ICANN Public Forum was held on the evening of 26 June 2002 in conjunction with ICANN's meeting in Bucharest, Romania, where each bidder made a presentation to the ICANN Board and community on its proposal, and a dialogue was held with members of the community, the Board, and the bidders.⁴

Over the next three months, four teams designated by ICANN evaluated the applications under the eleven criteria that had been posted as part of the request for proposals. The four teams, which focused on different aspects, were:

- Gartner, Inc. performed a detailed evaluation of the technical aspects of the eleven proposals;
- A team of Chief Information Officers of academic institutions in the United States, Mexico, and Australia also did a technical evaluation, which was more summary than the Gartner analysis and served as a validator of it;
- A team of participants in the DNSO Non-Commercial Domain Name Holders Constituency did an evaluation of the proposals under three of the stated criteria, involving proposed measures to differentiate of the .org TLD, responsiveness to the needs of the noncommercial Internet community, and level of support from .org registrants and the non-commercial community; and
- The ICANN General Counsel evaluated how well the proposals met certain legal considerations.

Each of these teams based its evaluation on the written proposals, the presentations at the Bucharest Public Forum, and public comments received on the proposals through ICANN's online comment mechanisms. In addition, the evaluators were assisted by the applicants' responses to fourteen questions that were posed to clarify various aspects of the proposals.

On 19 August 2002, a draft evaluation report, which detailed and combined the analyses of each of the evaluation teams, was posted on ICANN's web site. This draft report recommended the following three proposals, in order of preference: (1) PIR (a not-for-profit organization proposed to be formed by the Internet Society), (2) NeuStar, Inc. (a for-profit company), and (3) Global Name Registry (a for-profit company). Public and applicant comments were invited on the draft evaluation report, and many were received.⁵ These comments pointed out several areas in which the evaluation could be enhanced; these comments were addressed and a final evaluation report was issued on 23 September 2002. The final evaluation report included an overall "staff evaluation report" and supporting reports prepared by Gartner, Inc., the Non-Commercial Domain Name Holders Constituency team, and the ICANN General Counsel. Although the final evaluation report reflected revisions to several aspects of the evaluation based on the comments received, the recommended preferences for selection of (1) PIR, (2) NeuStar, and (3) Global Name Registry were reaffirmed by the analysis.

Further comments from the applicants and the public were invited on the final evaluation report, before its consideration by the ICANN Board. Eight of the eleven bidders chose to submit written summations for consideration by the Board. These were posted on the

ICANN web site.

On 14 October 2002, the ICANN Board met to consider the proposals in view of the extensive public and applicant comment, as well as the evaluation reports by the various evaluation teams. At that meeting, it selected PIR as the first-choice successor, and authorized the ICANN President and General Counsel to "negotiate a registry agreement with PIR consistent with the model .org Registry Agreement posted as part of the final Request for Proposals, supplemented as appropriate according to the proposal submitted by the Internet Society."⁶

C. Negotiation of the ICANN-PIR Agreement

The .org Registry Agreement was negotiated over the next ten days. On 24 October 2002, the fully negotiated agreement was posted on the ICANN web site. In line with ICANN's usual practice, ICANN Board members were afforded seven days in which to raise objections to the agreements based on policy considerations; no such objections were raised. On 26 November 2002, the U.S. Department of Commerce approved PIR as successor registry under Amendment 3 of its Memorandum of Understanding with ICANN. The ICANN and PIR formally entered the .org Registry Agreement on 2 December 2002.

Evaluation

This report is being provided under the 21 March 2001 contact for performance of the IANA function between the United States Government and the Internet Corporation for Assigned Names and Numbers. Under that contract, the IANA is responsible for various functions, known as the "IANA functions", associated with the management of the root zone of the Internet domain-name system.

The overall purpose of changing operators of the .org registry is to enhance diversity of providers in the provision of registry services. This purpose, however, must be accomplished in a way that preserves the security and stability of the domain-name system. It should also be accomplished in a way so that .org is operated in a manner that reflects the particular needs of present .org registrants and the other entities within the non-commercial sector for which the .org top-level domain was established.

Because the .org TLD registry presently serves over 2,600,000 second-level domains, ICANN placed primary emphasis on stability in evaluating the proposals. Indeed, the first criterion for the selection was stability:

1. Need to preserve a stable, well-functioning .org registry.

ICANN's first priority is to preserve the stability of the Internet, including the domain-name system (DNS). Inasmuch as the .org TLD presently contains over 2,700,000 second-level domains, a principal consideration will be ICANN's level of confidence that a particular proposal will result in technically sound, high-quality services that meet the needs of .org registrants.

Proposals should include specific plans, backed by ample, firmly committed resources, as to how the proposed operator intends to operate the .org TLD in a stable and technically competent manner. . . . In evaluating proposals, ICANN will place significant emphasis on the demonstrated ability of the

applicant or a member of the proposing team to operate a TLD registry of significant scale in a manner that provides affordable services with a high degree of service responsiveness and reliability.

Reassignment of .org Top-Level Domain: Criteria for Assessing Proposals (20 May 2002).

This emphasis on stability was reflected throughout the evaluation process and the Board's selection. After a twenty-five day transition period, PIR will provide registration services through an outsourcing arrangement with Afilias, which as the registry operator for .info has experience in serving as registry operator for over 1,000,000 second-level domains. The technical evaluation teams both evaluated the Internet Society/PIR proposal as being within the top tier in terms of stability and other technical factors.

The evaluation considered not only the demonstrated the technical stability provided by Afilias, but also the organizational characteristics of PIR. PIR is a not-for-profit corporation organized under Pennsylvania law to serve as the .org registry operator. Its sole member is the Internet Society, which appoints its Board. The Internet Society was formed in 1992 and is a professional membership society with more than 150 organizational and 11,000 individual members in over 182 countries. Thus, the Internet Society is a long-established organization that is particularly knowledgeable about the needs of the organizations for which the .org top-level domain was intended. By establishing PIR as a subsidiary to serve as the successor operator of .org, the Internet Society has created a structure that can operate the .org TLD in a manner that will be sensitive to the needs of its intended users while allowing PIR to focus on the operation of .org by insulating it from the possibly distracting effects of pursuing the Internet Society's broader mission.

Under the arrangements put in place by the Internet Society, Afilias will provide start-up funding for PIR, after which PIR will receive one-third of the revenues from operation of the registry. These arrangements should provide PIR the financial resources necessary for it to operate in a financially stable manner. In addition, the presence of Afilias as a back-end provider provides assurance of continued stable operation of the .org registry.

The negotiated .org registry agreement reinforces the overriding emphasis on technical stability. It is modeled on the registry agreements ICANN has entered for the four unsponsored TLDs (.biz, .info, .name, and .pro) that have been introduced in 2001 and 2002. The agreement's features designed to ensure that the continued stability of the .org TLD include functional and performance specifications, data escrow requirements, and a detailed transition plan (including contingency scenarios) that are designed to ensure that .org customers and Internet users do not experience failures or disruptions as a result of the reassignment of the .org registry.

The reassignment of the .org registry from VeriSign to PIR will also meet the goal of enhancing diversity in the provision of gTLD registry services. Based on 1 July 2002 registration data, the top four providers of registry services for commercial gTLDs⁷ currently are:

Provider	Number of Domain Names	Percentage of Total
VeriSign (.com/.net/.org)	28,908,179	94.54%
Afilias (.info)	868,162	2.84%

NeuLevel (.biz)	721,198	2.36%
Global Name Registry (.name)	80,000	0.26%

With the reassignment of .org to Public Interest Registry, under which Afilias will provide the back-end technical services, the providers' shares will be adjusted as follows (again, based on 1 July 2002 data):

Provider	Number of Domain Names	Percentage of Total
VeriSign (.com/.net/.org)	26,366,166	86.23%
PIR (.org) (Afilias back-end)	2,542,013	8.31%
Afilias (.info)	868,162	2.84%
NeuLevel (.biz)	721,198	2.36%
Global Name Registry (.name)	80,000	0.26%

These figures indicate that the reassignment of the .org registry from VeriSign to PIR (with Afilias as a back-end provider) will materially increase diversity among gTLD providers, although concentration remains quite high.⁸

The enhanced diversity of back-end providers also provides enhanced features for the .org registry services. Among the enhanced .org features will be much quicker DNS and Whois update times (15 minutes maximum) than presently provided (12 hours maximum), as well as a variety of no-cost and low-cost ancillary registry services.

Transition Plan

To help ensure a stable transition, PIR has contracted with VeriSign, Inc., to provide temporary back-end support for the .org registry beginning on 1 January 2003. This will permit a phased transition, during which the existing .org registrars that have completed contractual and other arrangements with PIR will continue submitting registry updates to VeriSign's registry system until 25 January 2003, in exactly the same technical manner as they do at present. Effective 25 January 2003, VeriSign will cease accepting .org updates from registrars and this function will be taken over by the new back-end provider, Afilias. The Afilias system will initially use the same protocol as presently used. Later in 2003, registrars will begin a migration from the current RRP protocol to the more-fully-featured EPP protocol, and will convert from the current thin registry model to a thick registry model. These migrations, as well as extensive contingency plans, are described in detail in PIR's Transition Plan. These plans are technically conservative and should lead to a stable transition to the new registry.

Conclusion

Based on the foregoing factors, the .org registry should be reassigned from VeriSign to Public Interest Registry as of 1 January 2003. This reassignment offers a material increase in the diversity of providers of gTLD registry services, while ensuring the continued stable operation of the .org registry.

Notes:

1. The new agreements (.com, .net, and .org) were approved by the Department of Commerce in paragraph I of Amendment 3 to its Memorandum of Understanding with ICANN.
2. See ICANN-VeriSign .org Registry Agreement §§ 5.1.1, 5.1.2 (25 May 2001).
3. The postings are archived at [<http://forum.icann.org/org/>](http://forum.icann.org/org/).
4. For a compendium of the presentations given, see [<http://www.icann.org/bucharest/org-presentations.htm>](http://www.icann.org/bucharest/org-presentations.htm). The proceedings were also transcribed and are posted at [<http://www.icann.org/bucharest/captioning-evening-26jun02.htm>](http://www.icann.org/bucharest/captioning-evening-26jun02.htm).
5. Comments of the applicants are posted at [<http://www.icann.org/tlds/org/applicant-comments-on-preliminary-report.htm>](http://www.icann.org/tlds/org/applicant-comments-on-preliminary-report.htm) and public comments are posted at [<http://forum.icann.org/org-eval/>](http://forum.icann.org/org-eval/).
6. A preliminary report of the Board meeting, showing the resolutions adopted by the Board, is posted at [<http://www.icann.org/minutes/prelim-report-14oct02.htm#SuccessorOperatorfororgRegistry>](http://www.icann.org/minutes/prelim-report-14oct02.htm#SuccessorOperatorfororgRegistry).
7. This table does not include .mil, .gov, .int, or .edu, which are not ordinarily used for registrations by commercial entities. In addition, the table does not include three recently introduced sponsored TLDs (.aero, .coop, and .museum) and one special-purpose unsponsored TLD (.pro), which account for fewer than 10,000 registered names combined.
8. VeriSign is one of eighteen gTLD registrars that jointly own Afilias. The ICANN General Counsel's evaluation considered the competitive effect of this ownership, and concluded that it would not impair the pro-competitive effects of the reassignment:

ISOC[PIR]'s back-end provider, Afilias, also has VeriSign as an investor. Afilias is organized as a consortium of eighteen gTLD registrars. VeriSign is a minority (5.6%) shareholder of Afilias as one of these registrars. Because the other Afilias shareholders are VeriSign's competitors, however, VeriSign's ability to exercise control over Afilias is effectively minimized and, indeed, no VeriSign employee has ever been elected to Afilias' Board of Trustees/Directors. In these circumstances, it does not appear that this investment relationship undercuts the competitive benefits of reassignment of .org, particularly in view of the fact that the .org registry would be assigned to ISOC[PIR], not Afilias.

Comments concerning the layout, construction and functionality of this site should be sent to webmaster@icann.org.

Page Updated 09-Dec-2002
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EXHIBIT C



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ICANN pimps new sexual harassment rules

New .sucks logo actually kinda sucks

XYZ settles Verisign's back-and-switcheroo lawsuit

You might be surprised how many new gTLDs have changed hands already

Kevin Murphy, July 1, 2016, 16:15:05 (UTC), Domain Registries

At least 86 new gTLD registry contracts have changed hands since the end of 2013, I have discovered.

ICANN calls the transfer of a Registry Agreement from one company to another an "assignment". Global Domains Division staff said in Buenos Aires last week that it's one of the more complex and time-consuming tasks they have to perform.

So I thought I'd do a count, and I discovered some interesting stuff.

Donuts/Rightside

The biggest beneficiary of incoming assignments so far is of course Rightside, aka United TLD Holdco, which has so far taken over 23 of the gTLDs applied for by Donuts.

The two companies have had an agreement since the start that allows Rightside to take on as many as 107 of Donuts' original 307 applications.

Interestingly, Rightside sold .fan to AsiaMix Digital after Donuts had transferred the gTLD to it.

Amazon

We also discover that Amazon is repatriating its gTLD contracts en masse.

So far, 21 gTLDs applied for by Amazon EU Sarl — the Luxembourg-based company Amazon uses to dodge tax in other European countries — have been transferred to US-based Amazon Registry Services Inc.

Amazon EU has made money losing new gTLD auctions.

Given the company's usual MO, I have to wonder whether Amazon Registry Services, under the US tax regime, plans to make any money at all from its new raft of gTLDs.

Subsidiary changes

Speaking of tax, four gTLDs associated with the Hong Kong-based Zodiac group of applicants have been transferred to new Cayman Islands companies with similar names.

A bunch of the other assignments appear to be registries shifting contracts between various subsidiaries.

IG Group, a large UK derivatives trader, has assigned seven gTLDs (such as .forex, .markets and .spreadbetting) to newly created UK subsidiaries, for example.

Also, Ireland-based Afilias transferred the .green RA to a new Irish subsidiary, while Germany-based .srl applicant mySRL has sent its contract to a Florida-based sister company from the InternetX stable.

There are several other example of this kind of activity.

Actual acquisitions

As best as I can tell, there have been only eight actual post-contracting acquisitions so far: .trust, .fan, .meet, .reise, .xn--ses554g, .rent, .theatre,



Donuts quietly buys .shopping from Uniregistry (and .jetzt)

Nominet to run .blog's back-end

Radix joins the Hollywood content police

WordPress reveals IT bought .blog for \$19 million

World's first vanity gTLD goes live

Afilias takes over .hotel, sidelines Krischenowski over hacking claims

Web.com acquires dozens of registrars from Rightside

Rightside to modernize eNom, predicts \$75m new gTLD revs

.fr becomes the 1,300th TLD

ZACR wades into .africa lawsuit, tells judge he screwed up

With Zika fears, is ICANN dishing Latin America?

Donuts wins .doctor

African brands wiped off the map as ICANN flips the kill switch on 10 gTLDs

GoDaddy grows domain revs 10% in Q1

A third of mayoral candidates using .london domains

Former GoDaddy VP apes Trump in Congressional bid

Donuts makes weird investment in startup

.shop lawsuit falling to pieces

Verisign facing its own activist investor

Two more dot-brands self-terminate

.web has an auction date

Verisign has great quarter but sees China growth slowing

The .web gTLD could go live in 2016

Greimann wins Nominet board seat

Domainers up in arms as DomainTools pricing rockets

M+M turns \$22m profit into \$10m loss

Registrars say Amazon is "closing" open gTLD

IWF finds child abuse imagery on new gTLD domains

.hotel fight gets nasty with "criminal" hacking claims

Aussies get to drop the .com

.sucks "gag order" dropped, approved

Facebook, under Chinese court threat, transfers Instagram.com to its new registrar

Burr to replace Tonkin on ICANN board

and .protection.

The only one of those I didn't know about — and haven't seen reported anywhere — was .meet, which Afilias seems to have sold to Google back in February.

It should be noted that while I've counted 86 assignments, I may have missed some. At least one — XYZ.com's acquisition of .security from Symantec, does not appear have been completed yet, judging by ICANN's web site.

Related posts (automatically generated):

- Generics versus brands as two more gTLDs are sold
- Donuts snatches four new gTLDs at auction, beating Amazon to .video
- Eight more new gTLDs delegated

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Tagged: .meet, acquisitions, ICANN, new gTLDs

COMMENTS (3)

Acro
July 1, 2015 at 4:26 pm
Great research! Such "behind the scenes" transactions generate extra millions in capital shifting.

Reply

Ruben Couto
July 2, 2015 at 11:25 am
Interesting info!

Reply

Joseph Peterson
July 6, 2015 at 1:08 am
Thanks for doing that digging, Kevin. My own to-do list just got 1 item shorter.

It would be interesting to identify nTLDs in advance — the isolated registries or registry applicants — that seem poised or vulnerable for buyout.

That way, we'd have a hypothetical picture of the future consolidated nTLD landscape.

Reply

ADD YOUR COMMENT

Name (required)

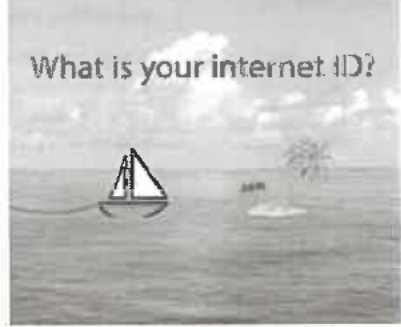
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RECENT COMMENTS

Rubens Kuhl:
Luc, could you clarify how SpamHaus see non-spam active domains? I would imagine devices like SpamPots only getting apa... read more

Luis Munoz:
Kevin, this might be actually evidence of what Bret's saying. You see, anti-spam filters evolve based on what they see... read more

z:
ICANN definitely stole it from Image Online Design. Little guy has a hard time winning. Why is Google even in this mix... read more

Bret Fausett:
The "percentage of abusive" TLDs metric is deceptive, since it only looks at the tip of the iceberg. Overall volume is m... read more

Acro:
Luc - On the subject of parked domains, I've seen this scheme being used by abusive domains: while the "www" variant is ... read more

Luc Rossini:
Obviously we differ completely on what constitutes an active domain. Spamhaus defines "active" as "actually being used ... read more

Luc Rossini:
OK, just pointing out that your article appears to be saying Spamhaus should include .download's 53,750 inactive (parked... read more

Andrew:
Key takeaway: inverse relationship between price and amount of domains used for spam... read more

Luc Rossini:
You are misunderstanding the data. Certainly .download may have 87,500 domains in its zone file, but only 13,750 act... read more

Colin Campbell:
Guess Trump better stay away from ICANN meetings :)... read more

5/23/2016 You might be surprised how many new gTLDs have changed hands already | Domain Incite - Domain Name Industry News, Analysis & Opinion

Facebook bought a registrar

Did the DotConnectAfrica
judge make a big dumb
mistake?

Afilias goes it alone with
.green as DotGreen bows
out

It's open season on ICANN
as judge rules new gTLD
applicants CAN sue

Domains "worth \$3 million"
put up for first industry
hackathon

No, .kids isn't a community
either

Rightside rejects Negati's
\$5m new gTLD offer

ICANN refuses to play Ted
Cruz's game

Nominet has sights set on
.org after M+M deal

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- Krueger's suit against M+M dropped, for now
- ICANN diverts from Puerto Rico to India to avoid Zika
- ICANN pimps new sexual harassment rules
- New .sucks logo actually kinda sucks
- XYZ settles Verisign's back-end switcheroo lawsuit

Minds + Machines dumps back-end and registrar in Nominet, Uniregistry deals

Kevin Murphy, April 8, 2016, 08:35:22 (UTC), Domain Registries

Minds + Machines is to get out of the registrar and back-end registry services markets in separate deals with Nominet and Uniregistry.

The cost-saving shake-up will lead to about 10 job losses, or about 25% to 30% of its current headcount, CEO Toby Hall told DI this morning.

Under the Nominet deal, M+M will outsource the back-end registry functions for 28 new gTLDs, currently managed in-house, to the .uk ccTLD manager.

The deal covers all the gTLDs for which M+M is the contracted party (such as .law, .cooking and .fashion), as well as the four it runs in partnership (eg .london) and the five where it currently acts as back-end for a third party registry (eg .broadway).

The company also plans to dump its "unprofitable" registrar entirely, migrating its existing customers to Uniregistry's Uniregistrar business.

About 49,000 domains will be affected by this move, Hall said.

Uniregistry will pay M+M a commission over the lifetime of the accounts.

Focusing on the registry business was the plan from the moment Hall took over M+M, following a shareholder coup that kicked out founding CEO Antony Van Couvering in January.

Hall told DI:

It [previously] had a very ambitious plan. It wanted to be vertically integrated, but the considered view is there are people out there who are far better able to run parts of the exercise than ourselves, both on the RSP piece and likewise the registrar piece. The strategy from day one was to rapidly evolve into becoming a business-to-business marketing-led registry business and radically overhauling our cost structure at the same time.

The company is currently in a financial quiet period and will not yet disclose the amount of savings it expects to reap, Hall said. He added:

Reducing cost isn't a strategy for growth, and as a business that will be where we will be judged. Growing our portfolio, growing our domains under management, growing our revenue within those domains. That's what the business has to be focused on. We see within the industry that the highest value is in the [TLD] ownership part.

The job losses are expected to be largely on the technical side of the house.

The RSP outsourcing means that Nominet significantly boosts its stable of managed TLDs. While it's in the top five back-ends in terms of DUM (due to the 11 million in .uk) its portfolio of clients there is relatively small, largely limited to a handful of dot-brands.



Donuts quietly buys .shopping from Uniregistry (and .jetzt)

Nominet to run .blog's back-end

Radix joins the Hollywood content police

WordPress reveals IT bought .blog for \$19 million

World's first vanity gTLD goes live

Afilias takes over .hotel, sidelines Krischenowski over hacking claims

Web.com acquires dozens of registrars from Rightside

Rightside to modernize eNom, predicts \$75m new gTLD revs

.fir becomes the 1,300th TLD

ZACR wades into .africa lawsuit, tells judge he screwed up

With Zika fears, is ICANN dishing Latin America?

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African brands wiped off the map as ICANN flips the kill switch on 10 gTLDs

GoDaddy grows domain revs 10% in Q1

A third of mayoral candidates using .london domains

Former GoDaddy VP apes Trump in Congressional bid

Donuts makes weird investment in startup

.shop lawsuit falling to pieces

Verisign facing its own activist investor

Two more dot-brands self-terminate

.web has an auction date

Verisign has great quarter but sees China growth slowing

The .web gTLD could go live in 2016

Grelmann wins Nominet board seat

Domainers up in arms as DomainTools pricing rockets

M+M turns \$22m profit into \$10m loss

Registrars say Amazon is "closing" open gTLD

IWF finds child abuse imagery on new gTLD domains

.hotel fight gets nasty with "criminal" hacking claims

Aussies get to drop the .com

.sucks "gag order" dropped, approved

Facebook, under Chinese court threat, transfers Instagram.com to its new registrar

Burr to replace Tonkin on ICANN board

Nominet CEO Russell Haworth said in a statement:

This partnership takes us into the top tier of registry operators globally by volume of TLDs and compliments the brands we currently manage, such as BBC, Bentley and Comcast. It also underlines our long-term strategy to provide a more diversified range of services to gTLDs and registrars.

With the Uniregistry registrar deal, Hall said that competing with its own channel "was just not right for us".

It might be worth noting that Uniregistry is actually a vertically integrated triple-play along the lines of M+M, also, managing its own back-end, registry and registrar businesses.

Hall said that the M+M registrar had sold mainly to domain investors with little interest in buying value-added services such as email and hosting, which is often where much of the profit lies.

Both deals are subject to ICANN approvals, and client approval in case of the back-end transition, will be phased in over many months, and are expected to be finalized by the end of the year.

UPDATE: M+M said later this morning that it is changing its official company domain to mmx.co from mindsandmachines.com.

Related posts (automatically generated):

Uniregistry doing private new gTLD auctions? Company deals with Donuts on five strings

Even without Al Gore, don't count Minds + Machines out of the .eco race

Minds + Machines to raise \$4.7m for new TLDs



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Tagged: ICANN, m+m, Minds + Machines, new gTLDs, nominet, uniregistry

ADD YOUR COMMENT

Name (required)

Email (will not be published) (required)

Web site (optional)

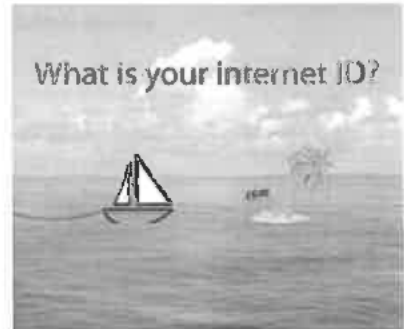
Text area for comment

Submit Comment



SKI

OPEN FOR THE SEASON



RECENT COMMENTS

Rubens Kuhl: Luc, could you clarify how SpamHaus see non-spam active domains? I would imagine devices like SpamPots only getting spa... read more

Luis Munoz: Kevin, this might be actually evidence of what Bret's saying. You see, anti-spam filters evolve based on what they see... read more

Z: ICANN definitely stole it from Image Online Design. Little guy has a hard time winning. Why is Google even in this mx... read more

Bret Fauselt: The "percentage of abusive" TLDs metric is deceptive, since it only looks at the tip of the iceberg. Overall volume is m... read more

Acro: Luc - On the subject of parked domains, I've seen this scheme being used by abusive domains: while the "www" variant is ... read more

Luc Rossini: Obviously we differ completely on what constitutes an active domain. Spamhaus defines "active" as "actually being used ... read more

Luc Rossini: OK, just pointing out that your article appears to be saying Spamhaus should include .downloads 53,760 inactive (parked... read more

Andrew: Key takeaway: inverse relationship between price and amount of domains used for spam... read more

Luc Rossini: You are misunderstanding the data. Certainly .download may have 67,500 domains in its zone file, but only 13,750 act... read more

Colin Campbell: Guess Trump better stay away from ICANN meetings :)... read more

Case 2:16-cv-00862-RGK-JC Document 97-4 Filed 05/23/16 Page 7 of 11 Page ID #:4279

5/23/2016 Minds + Machines dumps back-end and registrar in Nominet, Uniregistry deals | Domain Incite - Domain Name Industry News, Analysis & Opinion

Facebook bought a registrar

Did the DotConnectAfrica
judge make a big dumb
mistake?

Atlas goes it alone with
.green as DotGreen bows
out

It's open season on ICANN
as judge rules new gTLD
applicants CAN sue

Domains "worth \$3 million"
put up for first industry
hackathon

No, .kids isn't a community
either

Rightside rejects Negeri's
\$5m new gTLD offer

ICANN refuses to play Ted
Cruz's game

Nominet has sights set on
.org after M+M deal

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5/21/2016

Public Interest Registry Assumes Control of .ORG Domain Name Registry | Afilias

(/)



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- [Registrar Login \(http://registrars.afilias.info\)](http://registrars.afilias.info)
- [Afilias WHOIS \(http://whols.afilias.net\)](http://whols.afilias.net)

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 - [IDN e-mail \(/idnemail\)](#)
 - [ZoneHawk \(/zonehawk\)](#)
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- [New Top Level Domains \(/global-registry-services/new-tlds\)](#)
 - [New gTLD Pre-Registration \(/pre-register\)](#)
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News

Get the latest news from Afilias and its Industry Experts.

Public Interest Registry Assumes Control of .ORG Domain Name Registry

Largest Domain Redeleagation in the History of the Internet Commences

Reston, VA - January 2, 2003 - The [Public Interest Registry \(PIR\)](http://www.pir.org/) (<http://www.pir.org/>) today announced that it has assumed the role of registry operator for the .ORG top-level domain in a smooth handoff from former operator VeriSign Global Registry Services. This historic transition, which commenced yesterday when PIR officially assumed control of registry operations, marks the beginning of the largest transfer of data from one registry to another in the history of the Internet.

"We are pleased to begin the transition process," said David Maher, chairman of the PIR board. "We have put together a solid transition team and are working together toward a smooth, stable transition resulting in no interruption of service for .ORG registrants."

In order to minimize disruption, a 25-day phase-in period has begun during which VeriSign will still provide back-end technical services. This will allow those that sell .ORG domain names more time to prepare for the transition. On January 25, 2003, the technical services for the registry will be cutover from VeriSign to Afilias Limited, PIR's chosen back-end service provider.

The .ORG domain, which has come to be associated with noncommercial organizations, is the Internet's fifth largest top-level domain, housing over 2.4 million domain names worldwide. PIR was created to manage the .ORG registry by the Internet Society (ISOC), and is committed to setting a new standard for registry services in its management of .ORG that will meet the unique needs and interests of noncommercial organizations around the world.

Earlier this year, the Board of Directors of the Internet Corporation for Assigned Names and Numbers (ICANN) selected ISOC's proposal from among 11 organizations bidding to operate the .ORG top-level domain. VeriSign's contract as registry operator for .ORG expired on December 31, 2002. As such, it is relinquishing .ORG to comply with an agreement entered into with the ICANN and the U.S. Department of Commerce in May 2001.

About PIR

Public Interest Registry (www.PIR.org) (<http://www.PIR.org>) is a not-for-profit corporation created to manage the .ORG domain. PIR's mission is to manage the .ORG domain in a way that supports the continuing evolution of the Internet as a research, education and communications infrastructure, and educates and empowers the

5/21/2016

Public Interest Registry Assumes Control of .ORG Domain Name Registry | Afilias #4282

noncommercial community to most effectively utilize the Internet. PIR is based in Reston, VA.

PIR was created by the Internet Society (www.ISOC.org (<http://www.ISOC.org>)). ISOC is a not-for-profit, open membership organization founded in 1991 and is dedicated to ensuring the open evolution, development and use of the Internet for the benefit of all people. It provides leadership in addressing issues that confront the future of the Internet, and is the organizational home for the groups responsible for Internet infrastructure standards.

For additional information on PIR and the .ORG registry, please visit www.PIR.org (<http://www.pir.org>).

[Video: Customer 2025 Trust and dotBrands \(/blogs/roland-laplante/video-customer-2025-trust-and-dotbrands\)](/blogs/roland-laplante/video-customer-2025-trust-and-dotbrands)

[Help Cryptech \(and me\) make the Internet more secure \(/blogs/ram-mohan/help-cryptech-and-me-make-internet-more-secure\)](/blogs/ram-mohan/help-cryptech-and-me-make-internet-more-secure)

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- Afilias YouTube Link (<http://www.youtube.com/user/AfiliasLimited>)
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- Afilias Google+ (<https://plus.google.com/106277859905372813285?prsrc=3>)

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EXHIBIT D



NewgTLDs

Geographic Names Panel Clarifying Questions

Application ID: 1-1243-89583
String: AFRICA
Applicant: UniForum SA/ZACR

Clarifying Question 1:

Question 21b of the AGB states, "If [the application is for] a geographic name, attach documentation of support or non-objection from all relevant governments or public authorities." Section 2.2.1.4.3 (*Documentation Requirements*) of the AGB states that each letter of support or non-objection for a Geographic Name applicant must meet the following criteria:

1. Must clearly express the government's or public authority's support for or non-objection to the applicant's application
2. Demonstrate the government's or public authority's understanding of the string being requested
3. Demonstrate the government's or public authority's understanding of the string's intended use
4. Should demonstrate the government's or public authority's understanding that the string is being sought through the gTLD application process and that the applicant is willing to accept the conditions under which the string will be available.

Your application for .AFRICA includes a letter from the African Union dated 4 April 2012, subject "Letter of Appointment". The letter is signed by Dr Elham M A Ibrahim, Commissioner Infrastructure and Energy and bears the seal of the African Union Commission. However, the letter does not meet criteria 1, 2, 3 and 4 above.

Please provide an updated letter of support from the Commissioner, Infrastructure and Energy of the African Union, or another signatory duly authorised on behalf of the African Union Commission, that:

1. Clearly expresses the government's or public authority's support for or non-objection to the applicant's application
2. Demonstrates the government's or public authority's understanding of the string being requested
3. Demonstrates the government's or public authority's understanding of the string's intended use
4. Demonstrates the government's or public authority's understanding



NewgTLDs

that the string is being sought through the gTLD application process and that the applicant is willing to accept the conditions under which the string will be available.

For criterion number 4, "the applicant..[willingness] to accept the conditions under which the string will be available" can be satisfied by meeting the requirement of the first part of the criteria: "demonstrate the government's or public authority's understanding that the string is being sought through the gTLD application process."

This letter of support is due to ICANN by end of the initial evaluation period, August 31, 2013.

1 Jeffrey A. LeVee (State Bar No. 125863)
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 2 Kate Wallace (State Bar No. 234949)
 kwallace@jonesday.com
 3 Rachel Gezerseh (State Bar No. 251299)
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8 Attorneys for Defendant
 9 INTERNET CORPORATION FOR
 ASSIGNED NAMES AND NUMBERS

10
 11 UNITED STATES DISTRICT COURT
 12 CENTRAL DISTRICT OF CALIFORNIA
 13 WESTERN DIVISION

14
 15 DOTCONNECTAFRICA TRUST,
 16 Plaintiff,
 17 v.

18 INTERNET CORPORATION FOR
 ASSIGNED NAMES AND
 19 NUMBERS, *et al.*,
 20 Defendant.

Case No. CV 16-00862-RGK

Assigned for all purposes to the
 Honorable R. Gary Klausner

**DECLARATION OF AKRAM
 ATALLAH IN SUPPORT OF
 DEFENDANT ZACR'S MOTION
 TO RECONSIDER AND
 VACATE PRELIMINARY
 INJUNCTION RULING**

Hearing Date: June 6, 2016
 Hearing Time: 9:00 a.m.
 Hearing Location: Courtroom 850

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I, Akram Atallah declare the following:

1. I am the President, Global Domains Division, for the Internet Corporation for Assigned Names and Numbers (“ICANN”), a defendant in this action. I have personal knowledge of the matters set forth herein and am competent to testify as to those matters. I make this declaration in support of Defendant ZA Central Registry’s (“ZACR’s”) Motion To Reconsider And Vacate Preliminary Injunction Ruling (“Motion,” ECF No. 85).

2. I have read the relevant portions of plaintiff DotConnectAfrica Trust’s (“DCA’s”) opposition to the Motion (“Opposition”), in which DCA states that a transfer of the generic top level domain (“gTLD”) .AFRICA from ZACR to DCA “would prove extremely difficult, if not impossible, in this situation.” (ECF No. 91 at 4.) This statement is inaccurate.

3. A transfer or assignment of a gTLD such as .AFRICA is possible, feasible and consistent with ICANN’s previous conduct.

4. Over forty gTLDs have had their registry contracts transferred from one registry operator to a different registry operator, *i.e.*, transferred for operation by a different registry operator than the operator when the registry contract was initially executed. These transfers have occurred for a number of reasons, and transfers are not limited to “situation[s] where a registry’s contract with ICANN was expiring[,]” as DCA claims in its Opposition. (ECF No. 91 at 13.)

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on May 23, 2016, in Los Angeles, California.


Akram Atallah

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DOT CONNECT AFRICA TRUST

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION

DOTCONNECT AFRICA TRUST

Plaintiff,

v.

INTERNET CORPORATION FOR
ASSIGNED NAMES AND NUMBERS
and DOES 1 through 50, inclusive,

Defendants.

Case No. 2:16-cv-00862-RGK (JCx)

**DECLARATION OF SOPHIA
BEKELE ESHETE**

Date: June 6, 2016
Hearing: 9:00 a.m.
Courtroom: 850

[Filed concurrently: Plaintiff's
Opposition to Defendant ZA Central
Registry, NPC's Motion to
Reconsider and Vacate; Declaration
of Sara C. Colón; and Evidentiary
Objections to Declaration of
Makgabudi Lucky Masilela]

BEKELE DECLARATION

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CERTIFICATE OF SERVICE

I, Ethan J. Brown, hereby declare under penalty of perjury as follows:

I am a partner at the law firm of Brown Neri & Smith, LLP, with offices at 11766 Wilshire Blvd., Los Angeles, California 90025. On May 16, 2016, I caused the foregoing **DECLARATION OF SOPHIA BEKELE ESHETE** to be electronically filed with the Clerk of the Court using the CM/ECF system which sent notification of such filing to counsel of record.

Executed on May 16, 2016

/s/ Ethan J. Brown

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Attorneys for Plaintiff
DOTCONNECTAFRICA TRUST

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION

DOTCONNECTAFRICA TRUST, a
Mauritius Charitable Trust,

Plaintiff,

v.

INTERNET CORPORATION FOR
ASSIGNED NAMES AND NUMBERS;
ZA Central Registry, a South African
non-profit company; DOES 1 through
50, inclusive,

Defendants.

Case No. 2:16-cv-00862-RGK (JCx)

**DECLARATION OF SARA C.
COLÓN**

Date June 6, 2016
i e 9 00 a. .
Courtroo 0

[Filed concurrently: Plaintiffs’
Opposition to Defendant ZA Central
Registry, NPC’s Motion to
Reconsider and Vacate; Declaration
of Sophia Bekele Eschete; and
Evidentiary Objections to Declaration
of Mokgabudi Lucky Masilela]

DECLARATION OF SARA C. COLÓN ISO OPPOSITION TO ZACR MOTION TO
RECONSIDER

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CERTIFICATE OF SERVICE

I, Ethan J. Brown, hereby declare under penalty of perjury as follows:

I am a partner at the law firm of Brown Neri & Smith, LLP, with offices at 11766 Wilshire Blvd., Los Angeles, California 90025. On May 16, 2016, I caused the foregoing **DECLARATION OF SARA C. COLÓN** to be electronically filed with the Clerk of the Court using the CM/ECF system which sent notification of such filing to counsel of record.

Executed on May 16, 2016

/s/ Ethan J. Brown

Case 2:16-cv-00862-RGK-JC Document 92-1 Filed 05/16/16 Page 1 of 66 Page ID #:4101

EXHIBIT 1

AWARD/CONTRACT		1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)	RATING	PAGE OF PAGES 1 65			
2. CONTRACT (Proc. Inst. Ident.) NO. SA1301-12-CN-0035		3. EFFECTIVE DATE 10/01/2012	4. REQUISITION/PURCHASE REQUEST/PROJECT NO. AA-OAM-??-?-12-00934				
5. ISSUED BY U.S. DEPARTMENT OF COMMERCE 14TH & CONSTITUTION AVE. NW ACQUISITION SERVICES- ROOM 6520 WASHINGTON DC 20230		CODE 000SA	6. ADMINISTERED BY (if other than Item 5) U.S. DEPARTMENT OF COMMERCE 14TH & CONSTITUTION AVE. NW ACQUISITION SERVICES- ROOM 6520 WASHINGTON DC 20230				
7. NAME AND ADDRESS OF CONTRACTOR (No. street, county, State and ZIP Code) INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS 4676 ADMIRALTY WAY, SUITE #330 MARINA DEL REY CA 902928648 Vendor ID: 00000428 DUNS: 045511487 Cage Code: 4A4S9 CEC:		8. DELIVERY <input type="checkbox"/> FOB ORIGIN <input type="checkbox"/> OTHER (See below)		9. DISCOUNT FOR PROMPT PAYMENT NET 30			
11. SHIP TO/MARK FOR NATIONAL TEL. AND INFO. ADMIN 1401 CONSTITUTION AVE. NW ROOM 4888, HCHB		CODE INTIA-HCH	12. PAYMENT WILL BE MADE BY NIST ACCOUNTS PAYABLE OFFICE BLDG 101, ROOM A-836 MS 1621 100 BUREAU DRIVE				
13. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION: <input type="checkbox"/> 10 U.S.C. 2304(c) <input type="checkbox"/> 41 U.S.C. 253(e)		14. ACCOUNTING AND APPROPRIATION DATA					
15A. ITEM NO.	15B. SUPPLIES/SERVICES	15C. QUANTITY	15D. UNIT	15E. UNIT PRICE			
	Please See Continuation Page for Line Items						
15G. TOTAL AMOUNT OF CONTRACT ▶ \$ 0.00							
16. TABLE OF CONTENTS							
(X)	SEC.	DESCRIPTION	PAGE(S)	(X)	SEC.	DESCRIPTION	PAGE(S)
PART I - THE SCHEDULE				PART II - CONTRACT CLAUSES			
X	A	SOLICITATION/CONTRACT FORM	1	X	I	CONTRACT CLAUSES	52-65
X	B	SUPPLIES OR SERVICES AND PRICES/COSTS	2-3	PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACH.			
X	C	DESCRIPTION/SPECS./WORK STATEMENT	4-25	J		LIST OF ATTACHMENTS	
X	D	PACKAGING AND MARKING	26	PART IV - REPRESENTATIONS AND INSTRUCTIONS			
X	E	INSPECTION AND ACCEPTANCE	27-29	K		REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS	
X	F	DELIVERIES OR PERFORMANCE	30-32	L		INSTRS., CONDS., AND NOTICES TO OFFERORS	
X	G	CONTRACT ADMINISTRATION DATA	33-34	M		EVALUATION FACTORS FOR AWARD	
X	H	SPECIAL CONTRACT REQUIREMENTS	35-51				
17. <input checked="" type="checkbox"/> CONTRACTOR'S NEGOTIATED AGREEMENT (Contractor is required to sign this document and return 1 copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all the services set forth or otherwise identified above and on any continuation sheets for the consideration stated herein. The rights and obligations of the parties to this contract shall be subject to and governed by the following documents: (a) this award/contract, (b) the solicitation, if any, and (c) such provisions, representations, certifications, and specifications, as are attached or incorporated by reference herein. (Attachments are listed herein.)					18. <input type="checkbox"/> SEALED-BID AWARD (Contractor is not required to sign this document.) Your bid on Solicitation Number _____ including the additions or changes made by you which additions or changes are set forth in full above, is hereby accepted as to the terms listed above and on any continuation sheets. This award consummates the contract which consists of the following documents (a) the Government's solicitation and your bid, and (b) this award/contract. No further contractual document is necessary. (Block 18 should be checked only when awarding a sealed-bid contract.)		
19A. NAME AND TITLE OF SIGNER (Type or Print) ROD A. BECKSTROM PRESIDENT & CEO, ICANN				20A. NAME OF CONTRACTING OFFICER KATHLEEN M. MCGRATH			
19B. NAME OF CONTRACTOR BY <i>Rod Beckstrom</i> (Signature of person authorized to sign)		19C. DATE SIGNED June 29, 2012		20B. UNITED STATES OF AMERICA BY <i>Kathleen M. McGrath</i> (Signature of Contracting Officer)		20C. DATE SIGNED JUL 02, 2012	

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STANDARD FORM 26 (REV. 5/2011)
Prescribed by GSA - FAR (48 CFR) 53.214(a)

SCHEDULE Continued					
ITEM NO.	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE \$	AMOUNT \$
	<p>Contracting Officer: Mona-Lisa Dunn, 202-482-1470</p> <p>Primary Contracting Officer Representative: Vernita D. Harris, 202-482-4686, vharris@NTIA.doc.gov</p> <p>Alternate Contracting Officer Representative(s):</p> <p>Technical Point of Contact: Vernita D. Harris, 202-482-4686, vharris@NTIA.doc.gov</p> <p>The Contractor shall provide the services in accordance with the terms, conditions, and prices described herein.</p> <p>The Contractor's proposal dated May 31, 2012 and as amended through agreed terms and conditions dated June 23, 2012 and June 26, 2012 are hereby incorporated by reference.</p>				
0001	<p>BASE YEAR - October 1, 2012 - September 30, 2015. The Contractor shall provide the services necessary for the operation of the Internet Assigned Numbers Authority (IANA) in accordance with the attached Statement of Work. The Contractor may not charge the United States Government for performance of the requirements of this contract.</p> <p>Period of Performance: 10/01/2012 to 09/30/2015</p>	0.00	EA	0.00	0.00
0002	<p>OPTION YEAR 1 - October 1, 2015 - September 30, 2017. The Contractor shall provide the services necessary for the operation of the Internet Assigned Numbers Authority (IANA) in accordance with the attached Statement of Work. The Contractor may not charge the United States Government for performance of the requirements of this contract.</p> <p>Accounting and Appropriation Data: 61.12.1200012.100.0012.010102000. 0400000000000000.25970000.000000 \$0.00</p> <p>Period of Performance: 10/01/2015 to 09/30/2017 Pricing Option: Time and Material</p>	1.00	JB	0.00	OPT 0.00
0003	<p>OPTION YEAR 2 - October 1, 2017 - September 30, 2019. The Contractor shall provide the services necessary for the operation of the Internet Assigned Numbers Authority (IANA) in accordance with the attached Statement of Work. The Contractor may not charge the United States Government for performance of the requirements of this contract.</p> <p>Accounting and Appropriation Data: 61.12.1200012.100.0012.010102000. 0400000000000000.25970000.000000 \$0.00</p> <p>Period of Performance: 10/01/2017 to 09/30/2019 Pricing Option: Time and Material</p>	1.00	JB	0.00	OPT 0.00

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SECTION B SUPPLIES OR SERVICES AND PRICES/COSTS

This is a no cost, \$0.00 time and material contract.

B.2 COST/PRICE

The Contractor may not charge the United States Government to perform the requirements of this Contract. The Contractor may establish and collect fees from third parties provided the fee levels are approved by the Contracting Officer and are fair and reasonable. If fees are charged, the Contractor shall base any proposed fee structure on the cost of providing the specific service for which the fee is charged and the resources necessary to monitor the fee driven requirements. The Contractor may propose an interim fee for the first year of the contract, which will expire one year after the contract award. If the Contractor intends to establish and collect fees from third parties beyond the first year of the Contract, the Contractor must collaborate with the interested and affected parties as enumerated in Section C.1.3 to develop a proposed fee structure based on a methodology that tracks the actual costs incurred for each discrete IANA function. The Contractor must submit a copy of proposed fee structure, tracking methodology and description of the collaboration efforts and process to the Contracting Officer.

B.3 PRE-AWARD SURVEY – FAR 9.106 and 9.106-4(a)

At the discretion of the Contracting Officer, a site visit to the Offeror's facility (ies) may also be requested and conducted by the Department of Commerce (Commerce) or its designee. The purpose of this visit will be to gather information relevant to the Offeror's responsibility and prospective capability to perform the requirements under any contract that may be awarded. The Contracting Officer will arrange such a visit at least seven (7) days in advance with the Offeror.

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SECTION C – DESCRIPTION / SPECS / WORK STATEMENT

STATEMENT OF WORK/SPECIFICATIONS

The Contractor shall furnish the necessary personnel, materials, equipment, services and Facilities (except as otherwise specified) to perform the following Statement Work/Specifications.

C.1 BACKGROUND

C.1.1 The U.S. Department of Commerce (DoC), National Telecommunications and Information Administration (NTIA) has initiated this contract to maintain the continuity and stability of services related to certain interdependent Internet technical management functions, known collectively as the Internet Assigned Numbers Authority (IANA).

C.1.2 Initially, these interdependent technical functions were performed on behalf of the Government under a contract between the Defense Advanced Research Projects Agency (DARPA) and the University of Southern California (USC), as part of a research project known as the Tera-node Network Technology (TNT). As the TNT project neared completion and the DARPA/USC contract neared expiration in 1999, the Government recognized the need for the continued performance of the IANA functions as vital to the stability and correct functioning of the Internet.

C.1.3 The Contractor, in the performance of its duties, must have or develop a close constructive working relationship with all interested and affected parties to ensure quality and satisfactory performance of the IANA functions. The interested and affected parties include, but are not limited to, the multi-stakeholder, private sector led, bottom-up policy development model for the domain name system (DNS) that the Internet Corporation for Assigned Names and Numbers (ICANN) represents; the Internet Engineering Task Force (IETF) and the Internet Architecture Board (IAB); Regional Internet Registries (RIRs); top-level domain (TLD) operators/managers (e.g., country codes and generic); governments; and the Internet user community.

C.1.4 The Government acknowledges that data submitted by applicants in connection with the IANA functions may be confidential information. To the extent required by law, the Government shall accord any confidential data submitted by applicants in connection with the IANA functions with the same degree of care as it uses to protect its own confidential information, but not less than reasonable care, to prevent the unauthorized use, disclosure, or publication of confidential information. In providing data that is subject to such a confidentiality obligation to the Government, the Contractor shall advise the Government of that obligation.

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C.2 CONTRACTOR REQUIREMENTS

C.2.1 The Contractor must perform the required services for this contract as a prime Contractor, not as an agent or subcontractor. The Contractor shall not enter into any subcontracts for the performance of the services, or assign or transfer any of its rights or obligations under this Contract, without the Government's prior written consent and any attempt to do so shall be void and without further effect. The Contractor shall be a) a wholly U.S. owned and operated firm or fully accredited United States University or College operating in one of the 50 states of the United States or District of Columbia; b) incorporated within one of the fifty (50) states of the United States or District of Columbia; and c) organized under the laws of a state of the United States or District of Columbia. The Contractor shall perform the primary IANA functions of the Contract in the United States and possess and maintain, throughout the performance of this Contract, a physical address within the United States. The Contractor must be able to demonstrate that all primary operations and systems will remain within the United States (including the District of Columbia). The Government reserves the right to inspect the premises, systems, and processes of all security and operational components used for the performance of all Contract requirements and obligations.

C.2.2 The Contractor shall furnish the necessary personnel, material, equipment, services, and facilities, to perform the following requirements without any cost to the Government. The Contractor shall conduct due diligence in hiring, including full background checks.

C.2.3 The Contractor may not charge the United States Government for performance of the requirements of this contract. The Contractor may establish and collect fees from third parties provided the fee levels are approved by the Contracting Officer (CO) and are fair and reasonable. If fees are charged, the Contractor shall base any proposed fee structure on the cost of providing the specific service for which the fee is charged. The Contractor may propose an interim fee for the first year of the contract, which will expire one year after the contract award. The documentation must be based upon the anticipated cost for providing the specific service for which the fee is charged, including start up costs, if any, equipment, personnel, software, etc. If the Contractor intends to establish and collect fees from third parties beyond the first year of the contract, the Contractor must collaborate with the interested and affected parties as enumerated in Section C.1.3 to develop a proposed fee structure based on a methodology that tracks the actual costs incurred for each discrete IANA function enumerated and described in C.2.9. The Contractor must submit a copy of any proposed fee structure including tracking methodology and description of the collaboration and process efforts for fees being proposed after the first year contract award to the Contracting Officer. The performance exclusion C.8.3 shall apply to any fee proposed.

C.2.4 The Contractor is required to perform the IANA functions, which are critical for the operation of the Internet's core infrastructure, in a stable and secure manner. The IANA functions are administrative and technical in nature based on established policies developed by

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interested and affected parties, as enumerated in Section C.1.3. The Contractor shall treat each of the IANA functions with equal priority and process all requests promptly and efficiently.

C.2.5 Separation of Policy Development and Operational Roles -- The Contractor shall ensure that designated IANA functions staff members will not initiate, advance, or advocate any policy development related to the IANA functions. The Contractor's staff may respond to requests for information requested by interested and affected parties as enumerated in Section C.1.3 to inform ongoing policy discussions and may request guidance or clarification as necessary for the performance of the IANA functions.

C.2.6 Transparency and Accountability -- Within six (6) months of award, the Contractor shall, in collaboration with all interested and affected parties as enumerated in Section C.1.3, develop user instructions including technical requirements for each corresponding IANA function and post via a website.

C.2.7 Responsibility and Respect for Stakeholders -- Within six (6) months of award, the Contractor shall, in collaboration with all interested and affected parties as enumerated in Section C.1.3, develop for each of the IANA functions a process for documenting the source of the policies and procedures and how it will apply the relevant policies and procedures for the corresponding IANA function and post via a website.

C.2.8 Performance Standards -- Within six (6) months of award, the Contractor shall develop performance standards, in collaboration with all interested and affected parties as enumerated in Section C.1.3, for each of the IANA functions as set forth at C.2.9 to C.2.9.4 and post via a website.

C.2.9 Internet Assigned Numbers Authority (IANA) Functions -- include (1) the coordination of the assignment of technical Internet protocol parameters; (2) the administration of certain responsibilities associated with the Internet DNS root zone management; (3) the allocation of Internet numbering resources; and (4) other services related to the management of the ARPA and INT top-level domains (TLDs).

C.2.9.1 Coordinate The Assignment Of Technical Protocol Parameters including the management of the Address and Routing Parameter Area (ARPA) TLD -- The Contractor shall review and assign unique values to various parameters (*e.g.*, operation codes, port numbers, object identifiers, protocol numbers) used in various Internet protocols based on established guidelines and policies as developed by interested and affected parties as enumerated in Section C.1.3. The Contractor shall disseminate the listings of assigned parameters through various means (including on-line publication via a website) and shall review technical documents for consistency with assigned values. The Contractor shall operate the ARPA TLD within the current registration policies for this TLD, as documented in RFC 3172-Management Guidelines & Operational Requirements for the Address and Routing Parameter Area Domain,

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and any further clarification of this RFC. The Contractor shall also implement DNSSEC in the ARPA TLD.

C.2.9.2 Perform Administrative Functions Associated With Root Zone Management -- The Contractor shall facilitate and coordinate the root zone of the domain name system, and maintain 24 hour-a-day/7 days-a-week operational coverage. The process flow for root zone management involves three roles that are performed by three different entities through two separate legal agreements: the Contractor as the IANA Functions Operator, NTIA as the Administrator, and VeriSign (or any successor entity as designated by the U.S. Department of Commerce) as articulated in Cooperative Agreement Amendment 11, as the Root Zone Maintainer. The Requirements are detailed at Appendix 1 entitled Authoritative Root Zone Management Process that is incorporated by reference herein as if fully set forth. The Contractor shall work collaboratively with NTIA and the Root Zone Maintainer, in the performance of this function.

C.2.9.2.a Root Zone File Change Request Management -- The Contractor shall receive and process root zone file change requests for TLDs. These change requests include addition of new or updates to existing TLD name servers (NS) and delegation signer (DS) resource record (RR) information along with associated 'glue' (A and AAAA RRs). A change request may also include new TLD entries to the root zone file. The Contractor shall process root zone file changes as expeditiously as possible.

C.2.9.2.b Root Zone "WHOIS" Change Request and Database Management -- The Contractor shall maintain, update, and make publicly accessible a Root Zone "WHOIS" database with current and verified contact information for all TLD registry operators. The Root Zone "WHOIS" database, at a minimum, shall consist of the TLD name; the IP address of the primary nameserver and secondary nameserver for the TLD; the corresponding names of such nameservers; the creation date of the TLD; the name, postal address, email address, and telephone and fax numbers of the TLD registry operator; the name, postal address, email address, and telephone and fax numbers of the technical contact for the TLD registry operator; and the name, postal address, email address, and telephone and fax numbers of the administrative contact for the TLD registry operator; reports; and date record last updated; and any other information relevant to the TLD requested by the TLD registry operator. The Contractor shall receive and process root zone "WHOIS" change requests for TLDs.

C.2.9.2.c Delegation and Redellegation of a Country Code Top Level-Domain (ccTLD) --The Contractor shall apply existing policy frameworks in processing requests related to the delegation and redelegation of a ccTLD, such as RFC 1591 Domain Name System Structure and Delegation, the Governmental Advisory Committee (GAC) Principles And Guidelines For The Delegation And Administration Of Country Code Top Level Domains, and any further clarification of these policies by interested and affected parties as enumerated in Section C.1.3. If a policy framework does not exist to cover a specific instance, the Contractor will consult with the interested and affected parties, as enumerated in Section C.1.3; relevant public authorities;

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and governments on any recommendation that is not within or consistent with an existing policy framework. In making its recommendations, the Contractor shall also take into account the relevant national frameworks and applicable laws of the jurisdiction that the TLD registry serves. The Contractor shall submit its recommendations to the COR via a Delegation and Redelegation Report.

C.2.9.2d Delegation and Redelegation of a Generic Top Level Domain (gTLD) -- The Contractor shall verify that all requests related to the delegation and redelegation of gTLDs are consistent with the procedures developed by ICANN. In making a delegation or redelegation recommendation, the Contractor must provide documentation verifying that ICANN followed its own policy framework including specific documentation demonstrating how the process provided the opportunity for input from relevant stakeholders and was supportive of the global public interest. The Contractor shall submit its recommendations to the COR via a Delegation and Redelegation Report.

C.2.9.2.e Root Zone Automation -- The Contractor shall work with NTIA and the Root Zone Maintainer, and collaborate with all interested and affected parties as enumerated in Section C.1.3, to deploy a fully automated root zone management system within nine (9) months after date of contract award. The fully automated system must, at a minimum, include a secure (encrypted) system for customer communications; an automated provisioning protocol allowing customers to manage their interactions with the root zone management system; an online database of change requests and subsequent actions whereby each customer can see a record of their historic requests and maintain visibility into the progress of their current requests; and a test system, which customers can use to meet the technical requirements for a change request ; an internal interface for secure communications between the IANA Functions Operator; the Administrator, and the Root Zone Maintainer.

C.2.9.2.f Root Domain Name System Security Extensions (DNSSEC) Key Management --The Contractor shall be responsible for the management of the root zone Key Signing Key (KSK), including generation, publication, and use for signing the Root Keyset. As delineated in the Requirements at Appendix 2 entitled Baseline Requirements for DNSSEC in the Authoritative Root Zone that is incorporated by reference herein as if fully set forth. The Contractor shall work collaboratively with NTIA and the Root Zone Maintainer, in the performance of this function.

C.2.9.2.g Customer Service Complaint Resolution Process (CSCR) --The Contractor shall work with NTIA and collaborate with all interested and affected parties as enumerated in Section C.1.3 to establish and implement within six (6) months after date of contract award a process for IANA function customers to submit complaints for timely resolution that follows industry best practice and includes a reasonable timeframe for resolution.

C.2.9.3 Allocate Internet Numbering Resources --The Contractor shall have responsibility for allocated and unallocated IPv4 and IPv6 address space and Autonomous System Number (ASN)

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space based on established guidelines and policies as developed by interested and affected parties as enumerated in Section C.1.3. The Contractor shall delegate IP address blocks to Regional Internet Registries for routine allocation typically through downstream providers to Internet end-users within the regions served by those registries. The Contractor shall also reserve and direct allocation of space for special purposes, such as multicast addressing, addresses for private networks as described in RFC 1918-Address Allocation for Private Internets, and globally specified applications.

C.2.9.4 Other services -- The Contractor shall operate the INT TLD within the current registration policies for the TLD. Upon designation of a successor registry by the Government, if any, the Contractor shall cooperate with NTIA to facilitate the smooth transition of operation of the INT TLD. Such cooperation shall, at a minimum, include timely transfer to the successor registry of the then-current top-level domain registration data. The Contractor shall also implement modifications in performance of the IANA functions as needed upon mutual agreement of the parties.

C.2.10 The performance of the IANA functions as articulated in Section C.2 Contractor Requirements shall be in compliance with the performance exclusions enumerated in Section C. 8.

C.2.11 The Contracting Officer's Representative(COR) will perform final inspection and acceptance of all deliverables and reports articulated in Section C.2 Contractor Requirements. *Prior to publication/posting of reports the Contractor shall obtain approval from the COR.* The COR shall not unreasonably withhold approval.

C.2.12.a Program Manager. The contractor shall provide trained, knowledgeable technical personnel according to the requirements of this contract. All contractor personnel who interface with the CO and COR must have excellent oral and written communication skills. "Excellent oral and written communication skills" is defined as the capability to converse fluently, communicate effectively, and write intelligibly in the English language. The IANA Functions Program Manager organizes, plans, directs, staffs, and coordinates the overall program effort; manages contract and subcontract activities as the authorized interface with the CO and COR and ensures compliance with Federal rules and regulations and responsible for the following:

- Shall be responsible for the overall contract performance and shall not serve in any other capacity under this contract.
- Shall have demonstrated communications skills with all levels of management.
- Shall meet and confer with COR and CO regarding the status of specific contractor activities and problems, issues, or conflicts requiring resolution.
- Shall be capable of negotiating and making binding decisions for the company.
- Shall have extensive experience and proven expertise in managing similar multi-task contracts of this type and complexity.

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- Shall have extensive experience supervising personnel.
- Shall have a thorough understanding and knowledge of the principles and methodologies associated with program management and contract management.

C.2.12.b The Contractor shall assign to this contract the following key personnel: IANA Functions Program Manager (C.2.9); IANA Function Liaison for Technical Protocol Parameters Assignment (C.2.9.1); IANA Function Liaison for Root Zone Management (C.2.9.2); IANA Function Liaison for Internet Number Resource Allocation (C.2.9.3).

C.3 SECURITY REQUIREMENTS

C.3.1 Secure Systems -- The Contractor shall install and operate all computing and communications systems in accordance with best business and security practices. The Contractor shall implement a secure system for authenticated communications between it and its customers when carrying out all IANA function requirements. The Contractor shall document practices and configuration of all systems.

C.3.2 Secure Systems Notification -- The Contractor shall implement and thereafter operate and maintain a secure notification system at a minimum, capable of notifying all relevant stakeholders of the discrete IANA functions, of such events as outages, planned maintenance, and new developments. In all cases, the Contractor shall notify the COR of any outages.

C.3.3 Secure Data -- The Contractor shall ensure the authentication, integrity, and reliability of the data in performing each of the IANA functions.

C.3.4 Security Plan --The Contractor shall develop and execute a Security Plan that meets the requirements of this contract and Section C.3. The Contractor shall document in the security plan the process used to ensure information systems including hardware, software, applications, and general support systems have effective security safeguards, which have been implemented, planned for, and documented. The Contractor shall deliver the plan to the COR after each annual update.

C.3.5 Director of Security -- The Contractor shall designate a Director of Security who shall be responsible for ensuring technical and physical security measures, such as personnel access controls. The Contractor shall notify and consult in advance the COR when there are personnel changes in this position. The Director of Security shall be one of the key personnel assigned to this contract.

C.4 PERFORMANCE METRIC REQUIREMENTS

C.4.1 Meetings -- Program reviews and site visits shall occur annually.

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C.4.2 Monthly Performance Progress Report -- The Contractor shall prepare and submit to the COR a performance progress report every month (no later than 15 calendar days following the end of each month) that contains statistical and narrative information on the performance of the IANA functions (*i.e.*, assignment of technical protocol parameters; administrative functions associated with root zone management; and allocation of Internet numbering resources) during the previous calendar month. The report shall include a narrative summary of the work performed for each of the functions with appropriate details and particularity. The report shall also describe major events, problems encountered, and any projected significant changes, if any, related to the performance of requirements set forth in C.2.9 to C.2.9.4.

C.4.3 Root Zone Management Dashboard -- The Contractor shall work collaboratively with NTIA and the Root Zone Maintainer, and all interested and affected parties as enumerated in Section C.1.3, to develop and make publicly available via a website, a dashboard to track the process flow for root zone management within nine (9) months after date of contract award.

C.4.4 Performance Standards Reports -- The Contractor shall develop and publish reports for each discrete IANA function consistent with Section C.2.8. The Performance Standards Metric Reports will be published via a website every month (no later than 15 calendar days following the end of each month) starting no later than six (6) months after date of contract award.

C.4.5 Customer Service Survey (CSS) --The Contractor shall collaborate with NTIA to develop and conduct an annual customer service survey consistent with the performance standards for each of the discrete IANA functions. The survey shall include a feedback section for each discrete IANA function. No later than 30 days after conducting the survey, the Contractor shall submit the CSS Report to the COR.

C.4.6 Final Report -- The Contractor shall prepare and submit a final report on the performance of the IANA functions that documents standard operating procedures, including a description of the techniques, methods, software, and tools employed in the performance of the IANA functions. The Contractor shall submit the report to the CO and the COR no later than 30 days after expiration of the contract.

C.4.7 Inspection and Acceptance -- The COR will perform final inspection and acceptance of all deliverables and reports articulated in Section C.4. *Prior to publication/posting of reports, the Contractor shall obtain approval from the COR.* The COR shall not unreasonably withhold approval.

C.5 AUDIT REQUIREMENTS

C.5.1 Audit Data -- The Contractor shall generate and retain security process audit record data for one year and provide an annual audit report to the CO and the COR. All root zone management operations shall be included in the audit, and records on change requests to the root zone file. The Contractor shall retain these records in accordance with the clause at

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52.215-2. The Contractor shall provide specific audit record data to the CO and COR upon request.

C.5.2 Root Zone Management Audit Data -- The Contractor shall generate and publish via a website a monthly audit report based on information in the performance of *Provision C.9.2(a-g) Perform Administrative Functions Associated With Root Zone Management*. The audit report shall identify each root zone file and root zone "WHOIS" database change request and the relevant policy under which the change was made as well as identify change rejections and the relevant policy under which the change request was rejected. The Report shall start no later than nine (9) months after date of contract award and thereafter is due to the COR no later than 15 calendar days following the end of each month.

C.5.3 External Auditor - - The Contractor shall have an external, independent, specialized compliance audit which shall be conducted annually and it shall be an audit of all the IANA functions security provisions against existing best practices and Section C.3 of this contract.

C.5.4 Inspection and Acceptance -- The COR will perform final inspection and acceptance of all deliverables and reports articulated in Section C.5. *Prior to publication/posting of reports, the Contractor shall obtain approval from the COR.* The COR shall not unreasonably withhold approval.

C. 6 CONFLICT OF INTEREST REQUIREMENTS

C.6.1 The Contractor shall take measures to avoid any activity or situation that could compromise, or give the appearance of compromising, the impartial and objective performance of the contract (e.g., a person has a conflict of interest if the person directly or indirectly appears to benefit from the performance of the contract). The Contractor shall maintain a written, enforced conflict of interest policy that defines what constitutes a potential or actual conflict of interest for the Contractor. At a minimum, this policy must address conflicts based on personal relationships or bias, financial conflicts of interest, possible direct or indirect financial gain from Contractor's policy decisions and employment and post-employment activities. The conflict of interest policy must include appropriate sanctions in case of non-compliance, including suspension, dismissal and other penalties.

C.6.2 The Contractor shall designate a senior staff member to serve as a Conflict of Interest Officer who shall be responsible for ensuring the Contractor is in compliance with the Contractor's internal and external conflict of interest rules and procedures. The Conflict of Interest Officer shall be one of the key personnel assigned to this contract.

C.6.2.1 The Conflict of Interest Officer shall be responsible for distributing the Contractor's conflict of interest policy to all employees, directors, and subcontractors upon their election, re-election or appointment and annually thereafter.

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C.6.2.2 The Conflict of Interest Officer shall be responsible for requiring that each of the Contractor's employees, directors and subcontractors complete a certification with disclosures of any known conflicts of interest upon their election, re-election or appointment, and annually thereafter.

C.6.2.3 The Conflict of Interest Officer shall require that each of the Contractor's employees, directors, and subcontractors promptly update the certification to disclose any interest, transaction, or opportunity covered by the conflict of interest policy that arises during the annual reporting period.

C.6.2.4 The Conflict of Interest Officer shall develop and publish subject to applicable laws and regulations, a Conflict Of Interest Enforcement and Compliance Report. The report shall describe major events, problems encountered, and any changes, if any, related to Section C.6.

C.6.2.5 See also the clause at H.5. Organizational Conflict of Interest

C. 7 CONTINUITY OF OPERATIONS

C.7.1 Continuity of Operations (COP) – The Contractor shall, at a minimum, maintain multiple redundant sites in at least 2, ideally 3 sites, geographically dispersed within the United States as well as multiple resilient communication paths between interested and affected parties as enumerated in Section C.1.3 to ensure continuation of the IANA functions in the event of cyber or physical attacks, emergencies, or natural disasters.

C.7.2 Contingency and Continuity of Operations Plan (The CCOP) – The Contractor shall collaborate with NTIA and the Root Zone Maintainer, and all interested and affected parties as enumerated in Section C.1.3, to develop and implement a CCOP for the IANA functions within nine (9) months after date of contract award. The Contractor in collaboration with NTIA and the Root Zone Maintainer shall update and test the plan annually. The CCOP shall include details on plans for continuation of each of the IANA functions in the event of cyber or physical attacks, emergencies, or natural disasters. The Contractor shall submit the CCOP to the COR after each annual update.

C.7.3 Transition to Successor Contractor – In the event the Government selects a successor contractor, the Contractor shall have a plan in place for transitioning each of the IANA functions to ensure an orderly transition while maintaining continuity and security of operations. The plan shall be submitted to the COR eighteen (18) months after date of contract award, reviewed annually, and updated as appropriate.

C.8 PERFORMANCE EXCLUSIONS

C.8.1 This contract does not authorize the Contractor to make modifications, additions, or deletions to the root zone file or associated information. (This contract does not alter the root

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zone file responsibilities as set forth in Amendment 11 of the Cooperative Agreement NCR-9218742 between the U.S. Department of Commerce and VeriSign, Inc. or any successor entity as designated by the U.S. Department of Commerce). See Amendment 11 at http://ntia.doc.gov/files/ntia/publications/amend11_052206.pdf.

C.8.2 This contract does not authorize the Contractor to make material changes in the policies and procedures developed by the relevant entities associated with the performance of the IANA functions. The Contractor shall not change or implement the established methods associated with the performance of the IANA functions without prior approval of the CO.

C.8.3 The performance of the functions under this contract, including the development of recommendations in connection with Section C.2.9.2, shall not be, in any manner, predicated or conditioned on the existence or entry into any contract, agreement or negotiation between the Contractor and any party requesting such changes or any other third-party. Compliance with this Section must be consistent with C.2.9.2d.

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Appendix 1: Authoritative Root Zone Management Process¹

¹ The Root Zone management partners consist of the IANA Functions Operator (per the IANA functions contract), NTIA/Department of Commerce, and the Root Zone Maintainer (per the Cooperative Agreement with VeriSign (or any successor entity as designated by the U.S. Department of Commerce).

Appendix 2: Baseline Requirements for DNSSEC in the Authoritative Root Zone

DNSSEC at the authoritative Root Zone requires cooperation and collaboration between the root zone management partners and the Department.² The baseline requirements encompass the responsibilities and requirements for both the IANA Functions Operator and the Root Zone Maintainer as described and delineated below.

General Requirements

The Root Zone system needs an overall security lifecycle, such as that described in ISO 27001, and any security policy for DNSSEC implementation must be validated against existing standards for security controls.

The remainder of this section highlights security requirements that must be considered in developing any solution. ISO 27002:2005 (formerly ISO 17799:2005) and NIST SP 800-53 are recognized sources for specific controls. Note that reference to SP 800-53 is used as a convenient means of specifying a set of technical security requirements.³ It is expected that the systems referenced in this document will meet all the SP 800-53 technical security controls required by a HIGH IMPACT system.⁴

Whenever possible, references to NIST publications are given as a source for further information. These Special Publications (SP) and FIPS documents are not intended as a future auditing checklist, but as non-binding guidelines and recommendations to establish a viable IT security policy. Comparable security standards can be substituted where available and appropriate. All of the NIST document references can be found on the NIST Computer Security Research Center webpage (<http://www.csrc.nist.gov/>).

1) Security Authorization and Management Policy

- a) Each partner⁵ in the Root Zone Signing process shall have a security policy in place; this security policy must be periodically reviewed and updated, as appropriate.

² The Root Zone management partners consist of the IANA Functions Operator (per the IANA functions contract), NTIA/Department of Commerce, and Root Zone Maintainer (per the Cooperative Agreement with VeriSign). This document outlines requirements for both the IANA Functions Operator and Root Zone Maintainer in the operation and maintenance of DNSSEC at the authoritative root zone.

³ Note in particular that the use of the requirements in SP 800-53 does not imply that these systems are subject to other Federal Information Security Management Act (FISMA) processes.

⁴ For the purpose of identifying SP 800-53 security requirements, the Root Zone system can be considered a HIGH IMPACT system with regards to integrity and availability as defined in FIPS 199.

⁵ For this document, the roles in the Root Zone Signing process are those associated with the Key Signing Key holder, the Zone Signing Key holder, Public Key Distributor, and others to be conducted by the IANA Functions Operator and the Root Zone Maintainer.

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- i) Supplemental guidance on generating a Security Authorization Policy may be found in NIST SP 800-37.
- b) These policies shall have a contingency plan component to account for disaster recovery (both man-made and natural disasters).⁶
 - i) Supplemental guidance on contingency planning may be found in SP 800-34.
- c) These policies shall address Incident Response detection, handling and reporting (see 4 below).
 - i) Supplemental guidance on incident response handling may be found in NIST SP 800-61.

2) IT Access Control

- a) There shall be an IT access control policy in place for each of the key management functions and it shall be enforced.
 - i) This includes both access to hardware/software components and storage media as well as ability to perform process operations.
 - ii) Supplemental guidance on access control policies may be found in NIST SP 800-12.
- b) Users without authentication shall not perform any action in key management.
- c) In the absence of a compelling operational requirement, remote access to any cryptographic component in the system (e.g. HSM) is not permitted.⁷

3) Security Training

- a) All personnel participating in the Root Zone Signing process shall have adequate IT security training.
 - i) Supplemental guidance on establishing a security awareness training program may be found in NIST SP 800-50.

4) Audit and Accountability Procedures

⁶ For the IANA Functions Operator, the contingency plan must be consistent with and/or included in the "Contingency and Continuity of Operations Plan" as articulated in Section C.7 of the IANA functions contract.

⁷ Remote access is any access where a user or information system communicates through a non-organization controlled network (e.g., the Internet).

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- a) The organization associated with each role shall develop, disseminate, and periodically review/update: (1) a formal, documented, audit and accountability policy that addresses purpose, scope, roles, responsibilities, management commitment, coordination among organizational entities, and compliance; and (2) formal, documented procedures to facilitate the implementation of the audit and accountability policy and associated audit and accountability controls.
 - i) Supplemental guidance on auditing and accountability policies may be found in NIST SP 800-12.
 - ii) Specific auditing events include the following:
 - o Generation of keys
 - o Generation of signatures
 - o Exporting of public key material
 - o Receipt and validation of public key material (i.e., from the ZSK holder or from TLDs)
 - o System configuration changes
 - o Maintenance and/or system updates
 - o Incident response handling
 - o Other events as appropriate
- b) Incident handling for physical and exceptional cyber attacks⁸ shall include reporting to the Department's National Telecommunications and Information Administration (NTIA) in a timeframe and format as mutually agreed by the Department, IANA Functions Operator, and Root Zone Maintainer.
- c) The auditing procedures shall include monthly reporting to NTIA.⁹
- d) The auditing system shall be capable of producing reports on an ad-hoc basis.
- e) A version of these reports must be made publically available.

5) Physical Protection Requirements

- a) There shall be physical access controls in place to only allow access to hardware components and media to authorized personnel.
 - i) Supplemental guidance on token based access may be found in NIST SP 800-73 and FIPS 201.
 - ii) Supplemental guidance on token based access biometric controls may be found in

⁸ Non-exceptional events are to be included in monthly reporting as required in 4 c.

⁹ For the IANA Functions Operator, audit reporting shall be incorporated into the audit report as articulated in C.5.2 of the IANA functions contract.

NIST SP 800-76.

- b) Physical access shall be monitored, logged, and registered for all users and visitors.
- c) All hardware components used to store keying material or generate signatures shall have short-term backup emergency power connections in case of site power outage. (See, SP 800-53r3)
- d) All organizations shall have appropriate protection measures in place to prevent physical damage to facilities as appropriate.

6) All Components

- a) All commercial off the shelf hardware and software components must have an established maintenance and update procedure in place.
 - i) Supplemental guidance on establishing an upgrading policy for an organization may be found in NIST SP 800-40.
- b) All hardware and software components provide a means to detect and protect against unauthorized modifications/updates/patching.

Role Specific Requirements

7) Root Zone Key Signing Key (KSK) Holder¹⁰

The Root Zone KSK Holder (RZ KSK) is responsible for: (1) generating and protecting the private component of the RZ KSK(s); (2) securely exporting or importing any public key components, should this be required (3) authenticating and validating the public portion of the RZ Zone Signing Key (RZ ZSK); and (4) signing the Root Zone's DNSKEY record (ZSK/KSK).

a) Cryptographic Requirements

- i) The RZ KSK key pair shall be an RSA key pair, with a modulus of at least 2048 bits.
- ii) RSA key generation shall meet the requirements specified in FIPS 186-3.¹¹ In particular, key pair generation shall meet the FIPS 186-3 requirements for exponent size and primality testing.
- iii) The RZ KSK private key(s) shall be generated and stored on a FIPS 140-2 validated

¹⁰ The Root Zone KSK Holder is a responsibility performed by the IANA Functions Operator.

¹¹ Note that FIPS 186-3 and FIPS 140-2 are referenced as requirements in sections a and b, rather than supplemental guidance.

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hardware cryptographic module (HSM)¹², validated at Level 4 overall.¹³

- iv) RZ KSK Digital Signatures shall be generated using SHA-256.
- v) All cryptographic functions involving the private component of the KSK shall be performed within the HSM; that is, the private component shall only be exported from the HSM with the appropriate controls (FIPS 140-2) for purposes of key backup.

b) Multi-Party Control

At least two persons shall be required to activate or access any cryptographic module that contains the complete RZ KSK private signing key.

- i) The RZ KSK private key(s) shall be backed up and stored under at least two-person control. Backup copies shall be stored on FIPS 140-2 compliant HSM, validated at Level 4 overall, or shall be generated using m of n threshold scheme and distributed to organizationally separate parties.
- ii) Backup copies stored on HSMs shall be maintained in different physical locations¹⁴, with physical and procedural controls commensurate to that of the operational system.
- iii) In the case of threshold secret sharing, key shares shall be physically secured by each of the parties.
- iv) In all cases, the names of the parties participating in multi-person control shall be maintained on a list that shall be made available for inspection during compliance audits.

c) Root Zone KSK Rollover

- i) Scheduled rollover of the RZ KSK shall be performed.¹⁵ (See Contingency planning for unscheduled rollover.)
- ii) RZ KSK rollover procedures shall take into consideration the potential future need for algorithm rollover.
- iii) DNSSEC users shall be able to authenticate the source and integrity of the new RZ KSK using the previously trusted RZ KSK's public key.

d) Contingency Planning

¹² FIPS 140 defines hardware cryptographic modules, but this specification will use the more common HSM (for hardware security module) as the abbreviation.

¹³ Note that FIPS 186-3 and FIPS 140-2 are referenced as requirements in sections a and b, rather than supplemental guidance.

¹⁴ Backup locations are to be within the United States.

¹⁵ The Department envisions the timeline for scheduled rollover of the RZ KSK to be jointly developed and proposed by the IANA Functions Operator and Root Zone Maintainer, based on consultation and input from the affected parties (e.g. root server operators, large-scale resolver operators, etc). Note that subsequent test plans may specify more or less frequent RZ KSK rollover to ensure adequate testing.

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- i) Procedures for recovering from primary physical facility failures (e.g., fire or flood that renders the primary site inoperable) shall be designed to reconstitute capabilities within 48 hours.
- ii) Procedures for emergency rollover of the RZ KSK shall be designed to achieve key rollover and publication within 48 hours. These procedures, which are understood to address DNSSEC key provision only, should accommodate the following scenarios:
 - (1) The current RZ KSK has been compromised; and
 - (2) The current RZ KSK is unavailable, but is not believed to be compromised.

e) DNS Record Generation/Supporting RZ ZSK rollover

- i) The RZ KSK Holder shall authenticate the source and integrity of RZ ZSK public key material
 - (1) Mechanisms must support proof of possession and verify the parameters (i.e., the RSA exponent)
- ii) The signature on the root zone's DNSKEY record shall be generated using SHA-256.

f) Audit Generation and Review Procedures

- i) Designated Audit personnel may not participate in the multi-person control for the RZ ZSK or RZ KSK.
- ii) Audit logs shall be backed up offsite at least monthly.
- iii) Audit logs (whether onsite or offsite) shall be protected from modification or deletion.
- iv) Audit logs shall be made available upon request for Department review.

8) RZ KSK Public Key Distribution

- a) The RZ KSK public key(s) shall be distributed in a secure fashion to preclude substitution attacks.
- b) Each mechanism used to distribute the RZ KSK public key(s) shall either
 - i) Establish proof of possession of the RZ KSK private key (for public key distribution); or
 - ii) Establish proof of possession of the previous RZ KSK private key (for Root zone key rollover).

9) RZ Zone Signing Key (RZ ZSK) Holder¹⁶

¹⁶ The RZ ZSK holder is a function performed by the Root Zone Maintainer, NOT the IANA Functions Operator.

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The Root Zone ZSK Holder (RZ ZSK) is responsible for (1) generating and protecting the private component of the RZ ZSK(s); (2) securely exporting or importing any public key components, should this be required and (3) generating and signing Zone File Data in accordance to the DNSSEC specifications.

a) Cryptographic Requirements

- i) The RZ ZSK key pair shall be an RSA key pair, with a modulus of at least 1024 bits.¹⁷
- ii) RSA key generation shall meet the requirements specified in FIPS 186-3.¹⁸ In particular, key pair generation shall meet the FIPS 186-3 requirements for exponent size and primality testing.
- iii) RZ ZSK Digital Signatures shall be generated using SHA-256.
- iv) The RZ ZSK private key(s) shall be generated and stored on a FIPS 140-2 compliant HSM. At a minimum, the HSM shall be validated at Level 4 overall.
- v) All cryptographic functions involving the private component of the RZ ZSK shall be performed within the HSM; that is, the private component shall not be exported from the HSM except for purposes of key backup.

b) Multi-Party Control

- i) Activation of the RZ ZSK shall require at least two-person control. This requirement may be satisfied through a combination of physical and technical controls.
- ii) If the RZ ZSK private key(s) are backed up, they shall be backed up and stored under at least two-person control. Backup copies shall be stored on FIPS 140-2 validated HSM, validated at Level 4 overall.¹⁹
 - (1) Backup copies shall be maintained both onsite and offsite²⁰, with physical and procedural controls commensurate to that of the operational system.
 - (2) The names of the parties participating in multi-person control shall be maintained on a list and made available for inspection during compliance audits.

c) Contingency Planning

- i) Procedures for recovery from failure of the operational HSM containing the RZ ZSK shall be designed to re-establish the capability to sign the zone within 2 hours.
- ii) Procedures for emergency rollover of the RZ ZSK shall be designed to achieve key

¹⁷ Note that these requirements correspond to those articulated in NIST SP 800-78 for authentication keys. Since there is no forward security requirement for the DNSSEC signed data, the more stringent requirements imposed on long term digital signatures do not apply.

¹⁸ Note that FIPS 186-3 and FIPS 140-2 are referenced as requirements in sections 8a and 8 b, rather than as supplemental guidance.

¹⁹ Note that FIPS 186-3 and FIPS 140-2 are referenced as requirements in sections 8a and 8 b, rather than as supplemental guidance.

²⁰ The Department expects backup locations to be within the United States.

rollover within a technically feasible timeframe as mutually agreed among the Department, Root Zone Maintainer, and the IANA functions operator. These procedures must accommodate the following scenarios:

- (1) The current RZ ZSK has been compromised; and
- (2) The current RZ ZSK is unavailable (e.g. destroyed), but is not believed to be compromised.

d) Root Zone ZSK Rollover

- i) The RZ ZSK shall be rolled over every six months at a minimum.²¹
- ii) DNSSEC users shall be able to authenticate the source and integrity of the new RZ ZSK using the previously trusted RZ ZSK's public key.
- iii) RZ KSK holder shall be able to authenticate the source and integrity of the new RZ ZSK.

e) Audit Generation and Review Procedures

- i) Designated Audit personnel may not participate in the control for the RZ ZSK or RZ KSK.
- ii) Audit logs shall be backed up offsite at least monthly.
- iii) Audit logs (whether onsite or offsite) shall be protected from unauthorized access, modification, or deletion.
- iv) Audit logs shall be made available upon request for NTIA review.

Other Requirements

10) Transition Planning

- a) The IANA Functions Operator and Root Zone Maintainer shall have plans in place for transitioning the responsibilities for each role while maintaining continuity and security of operations. In the event the IANA Functions Operator or Root Zone Maintainer are no longer capable of fulfilling their DNSSEC related roles and responsibilities (due to bankruptcy, permanent loss of facilities, etc.) or in the event the Department selects a successor, that party shall ensure an orderly transition of their DNSSEC roles and responsibilities in cooperation with the Department.²²

11) Personnel Security Requirements

²¹ The timelines specified in this document apply to the operational system. Subsequent test plans may specify more or less frequent RZ ZSK rollover to ensure adequate testing.

²² For the IANA Functions Operator, the transition plan shall be incorporated into that which is called for in section C.7.3 of the IANA functions contract.

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a) Separation of Duties

- i) Personnel holding a role in the multi-party access to the RZ KSK may not hold a role in the multi-party access to the RZ ZSK, or vice versa.
- ii) Designated Audit personnel may not participate in the multi-person control for the RZ ZSK or KSK.
- iii) Audit Personnel shall be assigned to audit the RZ KSK Holder or the RZ ZSK Holder, but not both.

b) Security Training

- i) All personnel with access to any cryptographic component used with the Root Zone Signing process shall have adequate training for all expected duties.

12) Root Zone Maintainer Basic Requirements

- a) Ability to receive NTIA authorized TLD Resource Record Set (RRset) updates from NTIA and IANA Functions Operator
- b) Ability to integrate TLD RRset updates into the final zone file
- c) Ability to accept NTIA authorized signed RZ keyset(s) and integrate those RRsets into the final zone file

13) IANA Functions Operator Interface Basic Functionality

- a) Ability to accept and process TLD DS records. New functionality includes:
 - i) Accept TLD DS RRs
 - (1) Retrieve TLD DNSKEY record from the TLD, and perform parameter checking for the TLD keys, including verify that the DS RR has been correctly generated using the specified hash algorithm.
 - ii) Develop with, and communicate to, TLD operators procedures for:
 - (1) Scheduled roll over for TLD key material
 - (2) Supporting emergency key roll over for TLD key material.
 - (3) Moving TLD from signed to unsigned in the root zone.
- b) Ability to submit TLD DS record updates to NTIA for authorization and inclusion into the root zone by the Root Zone Maintainer.
- c) Ability to submit RZ keyset to NTIA for authorization and subsequent inclusion into the root zone by the Root Zone Maintainer.

14) Root Zone Management Requirements²³

²³ The Department envisions the IANA Functions Operator and Root Zone Maintainer jointly agree to utilizing pre-existing processes and/or deciding and proposing new methods by which each of these requirements are designed and implemented, subject to Department approval.

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- a) Ability and process to store TLD delegations and DS RRs
- b) Ability and process to store multiple keys for a delegation with possibly different algorithms
- c) Ability and process to maintain a history of DS records used by each delegation
- d) Procedures for managing scheduled roll over for TLD key material
- e) Procedures for managing emergency key roll over for TLD key material.²⁴
- f) Procedures for managing the movement of TLD from signed to unsigned.²⁵
- g) Procedures for DNSSEC revocation at the root zone and returning the root zone to its pre-signed state.

²⁴ To the extent possible, on 24 hour notice under the existing manual system and on 12 hours notice once the automated system is utilized.

²⁵ To the extent possible, this must be within 48 hours.

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SECTION D - PACKAGING AND MARKING

RESERVED

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SECTION E - INSPECTION AND ACCEPTANCE

E.1 INSPECTION AND ACCEPTANCE

The Contracting Officer's Representative (COR) will perform final inspection and acceptance of all work performed, written communications regardless of form, reports, and other services and deliverables related to Section C prior to any publication/posting called for by this Contract. The CO reserves the right to designate other Government agents as authorized representatives upon unilateral written notice to the Contractor, which may be accomplished in the form of a transmittal of a copy of the authorization. The Government reserves the right to inspect the premises, systems, and processes of all security and operational components used for the performance of all Contract requirements and obligations.

E.2 INSPECTION -- TIME-AND-MATERIAL AND LABOR-HOUR (FAR 52.246-6) (MAY 2001)

(a) *Definitions.* As used in this clause--

"Contractor's managerial personnel" means any of the Contractor's directors, officers, managers, superintendents, or equivalent representatives who have supervision or direction of --

- (1) All or substantially all of the Contractor's business;
- (2) All or substantially all of the Contractor's operation at any one plant or separate location where the contract is being performed; or
- (3) A separate and complete major industrial operation connected with the performance of this contract.

"Materials" includes data when the contract does not include the Warranty of Data clause.

(b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the material, fabricating methods, work, and services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Government during contract performance and for as long afterwards as the contract requires.

(c) The Government has the right to inspect and test all materials furnished and services performed under this contract, to the extent practicable at all places and times, including the period of performance, and in any event before acceptance. The Government may also inspect the plant or plants of the Contractor or any subcontractor engaged in contract performance.

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The Government shall perform inspections and tests in a manner that will not unduly delay the work.

(d) If the Government performs inspection or test on the premises of the Contractor or a subcontractor, the Contractor shall furnish and shall require subcontractors to furnish all reasonable facilities and assistance for the safe and convenient performance of these duties.

(e) Unless otherwise specified in the contract, the Government shall accept or reject services and materials at the place of delivery as promptly as practicable after delivery, and they shall be presumed accepted 60 days after the date of delivery, unless accepted earlier.

(f) At any time during contract performance, but not later than 6 months (or such other time as may be specified in the contract) after acceptance of the services or materials last delivered under this contract, the Government may require the Contractor to replace or correct services or materials that at time of delivery failed to meet contract requirements. Except as otherwise specified in paragraph (h) of this clause, the cost of replacement or correction shall be determined under the Payments Under Time-and-Materials and Labor-Hour Contracts clause, but the "hourly rate" for labor hours incurred in the replacement or correction shall be reduced to exclude that portion of the rate attributable to profit. The Contractor shall not tender for acceptance materials and services required to be replaced or corrected without disclosing the former requirement for replacement or correction, and, when required, shall disclose the corrective action taken.

(g)

(1) If the Contractor fails to proceed with reasonable promptness to perform required replacement or correction, and if the replacement or correction can be performed within the ceiling price (or the ceiling price as increased by the Government), the Government may --

(i) By contract or otherwise, perform the replacement or correction, charge to the Contractor any increased cost, or deduct such increased cost from any amounts paid or due under this contract; or

(ii) Terminate this contract for default.

(2) Failure to agree to the amount of increased cost to be charged to the Contractor shall be a dispute.

(h) Notwithstanding paragraphs (f) and (g) above, the Government may at any time require the Contractor to remedy by correction or replacement, without cost to the Government, any failure by the Contractor to comply with the requirements of this contract, if the failure is due to --

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(1) Fraud, lack of good faith, or willful misconduct on the part of the Contractor's managerial personnel; or

(2) The conduct of one or more of the Contractor's employees selected or retained by the Contractor after any of the Contractor's managerial personnel has reasonable grounds to believe that the employee is habitually careless or unqualified.

(i) This clause applies in the same manner and to the same extent to corrected or replacement materials or services as to materials and services originally delivered under this contract.

(j) The Contractor has no obligation or liability under this contract to correct or replace materials and services that at time of delivery do not meet contract requirements, except as provided in this clause or as may be otherwise specified in the contract.

(k) Unless otherwise specified in the contract, the Contractor's obligation to correct or replace Government-furnished property shall be governed by the clause pertaining to Government property.

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SECTION F - DELIVERIES AND PERFORMANCE**F.1 PERIOD OF PERFORMANCE**

The period of performance of this contract is: October 1, 2012 – September 30, 2015.

F.2 PLACE OF PERFORMANCE

The Contractor shall perform all work at the Contractor's facilities.

F.3 DISTRIBUTION OF DELIVERABLES

The Contractor shall submit **one (1) copy** to the COR.

F.4 DELIVERABLES

The listed below are the deliverables required by this contract. Section C of this contract contains information about the deliverables.

Clause No.	Clause	Deliverable	Due Date
C.2.6	Transparency and Accountability	User instructional documentation including technical requirements	Six months after award
C.2.7	Responsibility and Respect for Stakeholders	Documenting the source of the policies and procedures.	Six months after award
C.2.8	Performance Standards	Performance Standards	Six months after award
C.2.9.2e	Root Zone Automation	Automated Root Zone	Nine months after award
C.2.9.2g	Customer Service Complaint Resolution Process (CSCRCP)	Customer Compliant Process	Six months after award
C.3.4	Security Plan	Documenting Practices and configuration of all systems	Annually
C.4.1	Monthly Performance Progress Report includes DNSSEC	Report based on C.2	Monthly
C.4.2	Root Zone Management	Root Zone Management	Nine months

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Clause No.	Clause	Deliverable	Due Date
	Dashboard	Dashboard	after award
C.4.3	Performance Standards Reports	Performance Standards Report	Six months after award and monthly thereafter
C.4.4	Customer Service Survey	Customer Service Survey	Annual Report of Customer Survey
C.4.5	Final Report	Final Report	Expiration of Contract
C.5.1	Audit Data	Audit Report	Annually
C.5.2	Root Zone Management Audit Data	Root Zone Management Audit Report	Nine Months after award and Monthly Report thereafter
C.5.3	External Auditor	External Audit Report	Annually
C.6.2.4	Conflict of Interest Enforcement and Compliance Report	Enforcement and Compliance Report	Annually
C.7.2	Contingency and Continuity of Operations Plan (The CCOP)	Contingency and Continuity of Operations for the continuation of the IANA Functions in case of an emergency.	Annually
C.7.3	Transition to Successor	Transition plan in case of successor contractor.	Eighteen (18) months after date of contract award

F.5 GOVERNMENT RIGHTS TO DELIVERABLES

All deliverables provided under this contract become the property of the U.S. Government.

F.6 GOVERNMENT REVIEW OF DELIVERABLES

The Government shall review all deliverables and determine acceptability. Any deficiencies shall be corrected by the Contractor and resubmitted to the Government within ten (10) workdays after notification.

F.7 REQUIRED DELIVERABLES

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The Contractor shall transmit all deliverables so the deliverables are received by the parties listed above on or before the indicated due dates.

F.8 MEETINGS

Program reviews will be scheduled monthly and site visits will occur annually.

SECTION G - CONTRACT ADMINISTRATION DATA

Notwithstanding the Contractor's responsibility for total management during the performance of the contract, the administration of the contract will require maximum coordination between the Department of Commerce and the Contractor. The following individuals will be the Department of Commerce points of contact during the performance of the contract.

G.1 CONTRACTING OFFICER'S AUTHORITY

CONTRACTING OFFICER'S AUTHORITY (CAR 1352.201-70) (APR 2010)

The Contracting Officer is the only person authorized to make or approve any changes in any of the requirements of this contract, and, notwithstanding any provisions contained elsewhere in this contract, the said authority remains solely in the Contracting Officer. In the event the contractor makes any changes at the direction of any person other than the Contracting Officer, the change will be considered to have been made without authority and no adjustment will be made in the contract terms and conditions, including price.

CONTRACTING OFFICER'S REPRESENTATIVE (COR) (CAR 1352.201-72) (APR 2010)

(a) **Vernita D. Harris, Deputy Associate Administrator** is hereby designated as the Contracting Officer's Representative (COR). The COR may be changed at any time by the Government without prior notice to the contractor by a unilateral modification to the contract.

The COR is located at:

1401 Constitution Avenue, N.W., Room 4701, Washington, DC 20230

PHONE NO: 202.482.4686

Email: vharris@ntia.doc.gov

(b) The responsibilities and limitations of the COR are as follows:

(1) The COR is responsible for the technical aspects of the contract and serves as technical liaison with the contractor. The COR is also responsible for the final inspection and acceptance of all deliverables and such other responsibilities as may be specified in the contract.

(2) The COR is not authorized to make any commitments or otherwise obligate the Government or authorize any changes which affect the contract price, terms or conditions. Any contractor request for changes shall be referred to the Contracting Officer directly or through the COR. No such changes shall be made without the express written prior authorization of the Contracting Officer. The Contracting Officer may designate assistant or alternate COR(s) to act for the COR by naming such

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assistant/alternate(s) in writing and transmitting a copy of such designation to the contractor.

SECTION H - SPECIAL CONTRACT REQUIREMENTS

H.1 AUDIT AND RECORDS – NEGOTIATION (FAR 52.215-2) (OCT 2010)

(a) As used in this clause, “records” includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.

(b) *Examination of costs.* If this is a cost-reimbursement, incentive, time-and-materials, labor-hour, or price redeterminable contract, or any combination of these, the Contractor shall maintain and the Contracting Officer, or an authorized representative of the Contracting Officer, shall have the right to examine and audit all records and other evidence sufficient to reflect properly all costs claimed to have been incurred or anticipated to be incurred directly or indirectly in performance of this contract. This right of examination shall include inspection at all reasonable times of the Contractor’s plants, or parts of them, engaged in performing the contract.

(c) *Certified cost or pricing data.* If the Contractor has been required to submit certified cost or pricing data in connection with any pricing action relating to this contract, the Contracting Officer, or an authorized representative of the Contracting Officer, in order to evaluate the accuracy, completeness, and currency of the cost or pricing data, shall have the right to examine and audit all of the Contractor’s records, including computations and projections, related to --

- (1) The proposal for the contract, subcontract, or modification;
- (2) The discussions conducted on the proposal(s), including those related to negotiating;
- (3) Pricing of the contract, subcontract, or modification; or
- (4) Performance of the contract, subcontract or modification.

(d) *Comptroller General—*

(1) The Comptroller General of the United States, or an authorized representative, shall have access to and the right to examine any of the Contractor’s directly pertinent records involving transactions related to this contract or a subcontract hereunder and to interview any current employee regarding such transactions.

(2) This paragraph may not be construed to require the Contractor or subcontractor to create or maintain any record that the Contractor or subcontractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e) *Reports.* If the Contractor is required to furnish cost, funding, or performance reports, the Contracting Officer or an authorized representative of the Contracting Officer shall have the

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right to examine and audit the supporting records and materials, for the purpose of evaluating -
-

(1) The effectiveness of the Contractor's policies and procedures to produce data compatible with the objectives of these reports; and

(2) The data reported.

(f) *Availability.* The Contractor shall make available at its office at all reasonable times the records, materials, and other evidence described in paragraphs (a), (b), (c), (d), and (e) of this clause, for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in Subpart 4.7, Contractor Records Retention, of the Federal Acquisition Regulation (FAR), or for any longer period required by statute or by other clauses of this contract. In addition --

(1) If this contract is completely or partially terminated, the Contractor shall make available the records relating to the work terminated until 3 years after any resulting final termination settlement; and

(2) The Contractor shall make available records relating to appeals under the Disputes clause or to litigation or the settlement of claims arising under or relating to this contract until such appeals, litigation, or claims are finally resolved.

(g) The Contractor shall insert a clause containing all the terms of this clause, including this paragraph (g), in all subcontracts under this contract that exceed the simplified acquisition threshold, and --

(1) That are cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable type or any combination of these;

(2) For which certified cost or pricing data are required; or

(3) That require the subcontractor to furnish reports as discussed in paragraph (e) of this clause.

The clause may be altered only as necessary to identify properly the contracting parties and the Contracting Officer under the Government prime contract.

Alternate I (Mar 2009). As prescribed in [15.209](#) (b)(2), substitute the following paragraphs (d)(1) and (g) for paragraphs (d)(1) and (g) of the basic clause:

(d) *Comptroller General or Inspector General.*

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(1) The Comptroller General of the United States, an appropriate Inspector General appointed under section 3 or 8G of the Inspector General Act of 1978 (5 U.S.C. App.), or an authorized representative of either of the foregoing officials, shall have access to and the right to—

(i) Examine any of the Contractor's or any subcontractor's records that pertain to and involve transactions relating to this contract or a subcontract hereunder; and

(ii) Interview any officer or employee regarding such transactions.

(g)(1) Except as provided in paragraph (g)(2) of this clause, the Contractor shall insert a clause containing all the terms of this clause, including this paragraph (g), in all subcontracts under this contract. The clause may be altered only as necessary to identify properly the contracting parties and the Contracting Officer under the Government prime contract.

(2) The authority of the Inspector General under paragraph (d)(1)(ii) of this clause does not flow down to subcontracts.

Alternate II (Apr 1998). As prescribed in 15.209(b)(3), add the following paragraph (h) to the basic clause:

(h) The provisions of OMB Circular No.A-133, "Audits of States, Local Governments, and Nonprofit Organizations," apply to this contract.

Alternate III (Jun 1999). As prescribed in 15.209(b)(4), delete paragraph (d) of the basic clause and redesignate the remaining paragraphs accordingly, and substitute the following paragraph (e) for the redesignated paragraph (e) of the basic clause:

(e) Availability. The Contractor shall make available at its office at all reasonable times the records, materials, and other evidence described in paragraphs (a), (b), (c), and (d) of this clause, for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in Subpart 4.7, Contractor Records Retention, of the Federal Acquisition Regulation (FAR), or for any longer period required by statute or by other clauses of this contract. In addition—

(1) If this contract is completely or partially terminated, the Contractor shall make available the records relating to the work terminated until 3 years after any resulting final termination settlement; and

(2) The Contractor shall make available records relating to appeals under the Disputes clause or to litigation or the settlement of claims arising under or relating to this contract until such appeals, litigation, or claims are finally resolved.

H.2 PATENT RIGHTS -- OWNERSHIP BY THE CONTRACTOR (FAR 52.227-11) (DEC 2007)

(a) As used in this clause—

“Invention” means any invention or discovery that is or may be patentable or otherwise protectable under title 35 of the U.S. Code, or any variety of plant that is or may be protectable under the Plant Variety Protection Act (7 U.S.C. 2321, *et seq.*)

“Made” means—

(1) When used in relation to any invention other than a plant variety, the conception or first actual reduction to practice of the invention; or

(2) When used in relation to a plant variety, that the Contractor has at least tentatively determined that the variety has been reproduced with recognized characteristics.

“Nonprofit organization” means a university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.

“Practical application” means to manufacture, in the case of a composition of product; to practice, in the case of a process or method, or to operate, in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

“Subject invention” means any invention of the Contractor made in the performance of work under this contract.

(b) *Contractor’s rights.*

(1) *Ownership.* The Contractor may retain ownership of each subject invention throughout the world in accordance with the provisions of this clause.

(2) *License.*

(i) The Contractor shall retain a nonexclusive royalty-free license throughout the world in each subject invention to which the Government obtains title, unless the Contractor fails to disclose the invention within the times specified in paragraph (c) of this clause. The Contractor’s license extends to any domestic subsidiaries and affiliates within the corporate structure of which the Contractor

is a part, and includes the right to grant sublicenses to the extent the Contractor was legally obligated to do so at contract award. The license is transferable only with the written approval of the agency, except when transferred to the successor of that part of the Contractor's business to which the invention pertains.

(ii) The Contractor's license may be revoked or modified by the agency to the extent necessary to achieve expeditious practical application of the subject invention in a particular country in accordance with the procedures in FAR 27.302(i)2() and 27.(304(f).

(c) *Contractor's obligations.*

(1) The Contractor shall disclose in writing each subject invention to the Contracting Officer within 2 months after the inventor discloses it in writing to Contractor personnel responsible for patent matters. The disclosure shall identify the inventor(s) and this contract under which the subject invention was made. It shall be sufficiently complete in technical detail to convey a clear understanding of the subject invention. The disclosure shall also identify any publication, on sale (*i.e.*, sale or offer for sale), or public use of the subject invention, or whether a manuscript describing the subject invention has been submitted for publication and, if so, whether it has been accepted for publication. In addition, after disclosure to the agency, the Contractor shall promptly notify the Contracting Officer of the acceptance of any manuscript describing the subject invention for publication and any on sale or public use.

(2) The Contractor shall elect in writing whether or not to retain ownership of any subject invention by notifying the Contracting Officer within 2 years of disclosure to the agency. However, in any case where publication, on sale, or public use has initiated the 1-year statutory period during which valid patent protection can be obtained in the United States, the period for election of title may be shortened by the agency to a date that is no more than 60 days prior to the end of the statutory period.

(3) The Contractor shall file either a provisional or a nonprovisional patent application or a Plant Variety Protection Application on an elected subject invention within 1 year after election. However, in any case where a publication, on sale, or public use has initiated the 1-year statutory period during which valid patent protection can be obtained in the United States, the Contractor shall file the application prior to the end of that statutory period. If the Contractor files a provisional application, it shall file a nonprovisional application within 10 months of the filing of the provisional application. The Contractor shall file patent applications in additional countries or international patent offices within either 10 months of the first filed patent application (whether provisional or nonprovisional) or 6 months from the date permission is granted by the Commissioner

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of Patents to file foreign patent applications where such filing has been prohibited by a Secrecy Order.

(4) The Contractor may request extensions of time for disclosure, election, or filing under paragraphs (c)(1), (c)(2), and (c)(3) of this clause.

(d) *Government's rights—*

(1) *Ownership.* The Contractor shall assign to the agency, on written request, title to any subject invention—

(i) If the Contractor fails to disclose or elect ownership to the subject invention within the times specified in paragraph (c) of this clause, or elects not to retain ownership; provided, that the agency may request title only within 60 days after learning of the Contractor's failure to disclose or elect within the specified times.

(ii) In those countries in which the Contractor fails to file patent applications within the times specified in paragraph (c) of this clause; provided, however, that if the Contractor has filed a patent application in a country after the times specified in paragraph (c) of this clause, but prior to its receipt of the written request of the agency, the Contractor shall continue to retain ownership in that country.

(iii) In any country in which the Contractor decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in reexamination or opposition proceeding on, a patent on a subject invention.

(2) *License.* If the Contractor retains ownership of any subject invention, the Government shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice, or have practiced for or on its behalf, the subject invention throughout the world.

(e) *Contractor action to protect the Government's interest.*

(1) The Contractor shall execute or have executed and promptly deliver to the agency all instruments necessary to—

(i) Establish or confirm the rights the Government has throughout the world in those subject inventions in which the Contractor elects to retain ownership; and

(ii) Assign title to the agency when requested under paragraph (d) of this clause and to enable the Government to obtain patent protection and plant variety protection for that subject invention in any country.

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(2) The Contractor shall require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in the Contractor's format, each subject invention in order that the Contractor can comply with the disclosure provisions of paragraph (c) of this clause, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions. The disclosure format should require, as a minimum, the information required by paragraph (c)(1) of this clause. The Contractor shall instruct such employees, through employee agreements or other suitable educational programs, as to the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

(3) The Contractor shall notify the Contracting Officer of any decisions not to file a nonprovisional patent application, continue the prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any country, not less than 30 days before the expiration of the response or filing period required by the relevant patent office.

(4) The Contractor shall include, within the specification of any United States nonprovisional patent or plant variety protection application and any patent or plant variety protection certificate issuing thereon covering a subject invention, the following statement, "This invention was made with Government support under (identify the contract) awarded by (identify the agency). The Government has certain rights in the invention."

(f) *Reporting on utilization of subject inventions.* The Contractor shall submit, on request, periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining utilization of the subject invention that are being made by the Contractor or its licensees or assignees. The reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the Contractor, and other data and information as the agency may reasonably specify. The Contractor also shall provide additional reports as may be requested by the agency in connection with any march-in proceeding undertaken by the agency in accordance with paragraph (h) of this clause. The Contractor also shall mark any utilization report as confidential/proprietary to help prevent inadvertent release outside the Government. As required by 35 U.S.C. 202(c)(5), the agency will not disclose that information to persons outside the Government without the Contractor's permission.

(g) *Preference for United States industry.* Notwithstanding any other provision of this clause, neither the Contractor nor any assignee shall grant to any person the exclusive right to use or sell any subject invention in the United States unless the person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement

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for an agreement may be waived by the agency upon a showing by the Contractor or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States, or that under the circumstances domestic manufacture is not commercially feasible.

(h) *March-in rights*. The Contractor acknowledges that, with respect to any subject invention in which it has retained ownership, the agency has the right to require licensing pursuant to 35 U.S.C. 203 and 210(c), and in accordance with the procedures in 37 CFR 401.6 and any supplemental regulations of the agency in effect on the date of contract award.

(i) Special provisions for contracts with nonprofit organizations. If the Contractor is a nonprofit organization, it shall—

(1) Not assign rights to a subject invention in the United States without the written approval of the agency, except where an assignment is made to an organization that has as one of its primary functions the management of inventions, provided, that the assignee shall be subject to the same provisions as the Contractor;

(2) Share royalties collected on a subject invention with the inventor, including Federal employee co-inventors (but through their agency if the agency deems it appropriate) when the subject invention is assigned in accordance with 35 U.S.C. 202(e) and 37 CFR 401.10;

(3) Use the balance of any royalties or income earned by the Contractor with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions for the support of scientific research or education; and

(4) Make efforts that are reasonable under the circumstances to attract licensees of subject inventions that are small business concerns, and give a preference to a small business concern when licensing a subject invention if the Contractor determines that the small business concern has a plan or proposal for marketing the invention which, if executed, is equally as likely to bring the invention to practical application as any plans or proposals from applicants that are not small business concerns; provided, that the Contractor is also satisfied that the small business concern has the capability and resources to carry out its plan or proposal. The decision whether to give a preference in any specific case will be at the discretion of the Contractor.

(5) Allow the Secretary of Commerce to review the Contractor's licensing program and decisions regarding small business applicants, and negotiate changes to its licensing policies, procedures, or practices with the Secretary of Commerce when the Secretary's review discloses that the Contractor could take reasonable steps to more effectively implement the requirements of paragraph (i)(4) of this clause.

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(j) *Communications.* [Complete according to agency instructions.]

(k) *Subcontracts.*

(1) The Contractor shall include the substance of this clause, including this paragraph (k), in all subcontracts for experimental, developmental, or research work to be performed by a small business concern or nonprofit organization.

(2) The Contractor shall include in all other subcontracts for experimental, developmental, or research work the substance of the patent rights clause required by FAR Subpart 27.3.

(3) At all tiers, the patent rights clause must be modified to identify the parties as follows: references to the Government are not changed, and the subcontractor has all rights and obligations of the Contractor in the clause. The Contractor shall not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.

(4) In subcontracts, at any tier, the agency, the subcontractor, and the Contractor agree that the mutual obligations of the parties created by this clause constitute a contract between the subcontractor and the agency with respect to the matters covered by the clause; provided, however, that nothing in this paragraph is intended to confer any jurisdiction under the Contract Disputes Act in connection with proceedings under paragraph (h) of this clause.

H.3 RESERVED

H.4 RIGHTS IN DATA – SPECIAL WORKS (FAR 52.227-17) (DEC 2007)

(a) *Definitions.* As used in this clause--

“Data” means recorded information, regardless of form or the medium on which it may be recorded. The term includes technical data and computer software. The term does not include information incidental to contract administration, such as financial, administrative, cost or pricing, or management information.

“Unlimited rights” means the rights of the Government to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, in any manner and for any purpose, and to have or permit others to do so.

(b) *Allocation of Rights.*

(1) The Government shall have—

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(i) Unlimited rights in all data delivered under this contract, and in all data first produced in the performance of this contract, except as provided in paragraph (c) of this clause for copyright.

(ii) The right to limit assertion of copyright in data first produced in the performance of this contract, and to obtain assignment of copyright in that data, in accordance with paragraph (c)(1) of this clause.

(iii) The right to limit the release and use of certain data in accordance with paragraph (d) of this clause.

(2) The Contractor shall have, to the extent permission is granted in accordance with paragraph (c)(1) of this clause, the right to assert claim to copyright subsisting in data first produced in the performance of this contract.

(c) *Copyright—*

(1) *Data first produced in the performance of this contract.*

(i) The Contractor shall not assert or authorize others to assert any claim to copyright subsisting in any data first produced in the performance of this contract without prior written permission of the Contracting Officer. When copyright is asserted, the Contractor shall affix the appropriate copyright notice of 17 U.S.C. 401 or 402 and acknowledgment of Government sponsorship (including contract number) to the data when delivered to the Government, as well as when the data are published or deposited for registration as a published work in the U.S. Copyright Office. The Contractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable, worldwide license for all delivered data to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by or on behalf of the Government.

(ii) If the Government desires to obtain copyright in data first produced in the performance of this contract and permission has not been granted as set forth in paragraph (c)(1)(i) of this clause, the Contracting Officer shall direct the Contractor to assign (with or without registration), or obtain the assignment of, the copyright to the Government or its designated assignee.

(2) *Data not first produced in the performance of this contract.* The Contractor shall not, without prior written permission of the Contracting Officer, incorporate in data delivered under this contract any data not first produced in the performance of this contract and which contain the copyright notice of 17 U.S.C. 401 or 402, unless the

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Contractor identifies such data and grants to the Government, or acquires on its behalf, a license of the same scope as set forth in subparagraph (c)(1) of this clause.

(d) *Release and use restrictions.* Except as otherwise specifically provided for in this contract, the Contractor shall not use, release, reproduce, distribute, or publish any data first produced in the performance of this contract, nor authorize others to do so, without written permission of the Contracting Officer.

(e) *Indemnity.* The Contractor shall indemnify the Government and its officers, agents, and employees acting for the Government against any liability, including costs and expenses, incurred as the result of the violation of trade secrets, copyrights, or right of privacy or publicity, arising out of the creation, delivery, publication, or use of any data furnished under this contract; or any libelous or other unlawful matter contained in such data. The provisions of this paragraph do not apply unless the Government provides notice to the Contractor as soon as practicable of any claim or suit, affords the Contractor an opportunity under applicable laws, rules, or regulations to participate in the defense of the claim or suit, and obtains the Contractor's consent to the settlement of any claim or suit other than as required by final decree of a court of competent jurisdiction; and these provisions do not apply to material furnished to the Contractor by the Government and incorporated in data to which this clause applies.

H.5 RIGHTS IN DATA -- EXISTING WORKS (FAR 52.227-18) (DEC 2007)

(a) Except as otherwise provided in this contract, the Contractor grants to the Government, and others acting on its behalf, a paid-up nonexclusive, irrevocable, worldwide license to reproduce, prepare derivative works, and perform publicly and display publicly, by or on behalf of the Government, for all the material or subject matter called for under this contract, or for which this clause is specifically made applicable.

(b) The Contractor shall indemnify the Government and its officers, agents, and employees acting for the Government against any liability, including costs and expenses, incurred as the result of (1) the violation of trade secrets, copyrights, or right of privacy or publicity, arising out of the creation, delivery, publication or use of any data furnished under this contract; or (2) any libelous or other unlawful matter contained in such data. The provisions of this paragraph do not apply unless the Government provides notice to the Contractor as soon as practicable of any claim or suit, affords the Contractor an opportunity under applicable laws, rules, or regulations to participate in the defense of the claim or suit, and obtains the Contractor's consent to the settlement of any claim or suit other than as required by final decree of a court of competent jurisdiction; and do not apply to material furnished to the Contractor by the Government and incorporated in data to which this clause applies.

H.6 BANKRUPTCY (FAR 52.242-13) (JUL 1995)

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In the event the Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish, by certified mail or electronic commerce method authorized by the contract, written notification of the bankruptcy to the Contracting Officer responsible for administering the contract. This notification shall be furnished within five days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of Government contract numbers and contracting offices for all Government contracts against which final payment has not been made. This obligation remains in effect until final payment under this contract.

H.7 PRINTING (CAR 1352.208-70) (APR 2010)

(a) The contractor is authorized to duplicate or copy production units provided the requirement does not exceed 5,000 production units of any one page or 25,000 production units in the aggregate of multiple pages. Such pages may not exceed a maximum image size of 103/4by 141/4inches. A "production unit" is one sheet, size 8 1/2x 11 inches (215 x 280 mm), one side only, and one color ink. Production unit requirements are outlined in the Government Printing and Binding Regulations.

(b) This clause does not preclude writing, editing, preparation of manuscript copy, or preparation of related illustrative material as a part of this contract, or administrative duplicating/copying (for example, necessary forms and instructional materials used by the contractor to respond to the terms of the contract).

(c) Costs associated with printing, duplicating, or copying in excess of the limits in paragraph (a) of this clause are unallowable without prior written approval of the Contracting Officer. If the contractor has reason to believe that any activity required in fulfillment of the contract will necessitate any printing or substantial duplicating or copying, it shall immediately provide written notice to the Contracting Officer and request approval prior to proceeding with the activity. Requests will be processed by the Contracting Officer in accordance with FAR 8.802.

(d) The contractor shall include in each subcontract which may involve a requirement for any printing, duplicating, and copying in excess of the limits specified in paragraph (a) of this clause, a provision substantially the same as this clause, including this paragraph (d).

H.8 KEY PERSONNEL (CAR 1352.237-75) (APR 2010)

(a) The contractor shall assign to this contract the following key personnel:

NAME	POSITION
Elise Gerich	IANA Functions Program Manager

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Michelle Cotton	IANA Function Liaison for Technical Protocol Parameters Assignment
Kim Davies	IANA Function Liaison for Root Zone Management
Leo Vegoda	IANA Function Liaison for Internet Number Resource Allocation
Tomofumi Okubo	Security Director
Steve Antonoff	Conflict of Interest Officer

(b) The contractor shall obtain the consent of the Contracting Officer prior to making key personnel substitutions. Replacements for key personnel must possess qualifications equal to or exceeding the qualifications of the personnel being replaced, unless an exception is approved by the Contracting Officer.

(c) Requests for changes in key personnel shall be submitted to the Contracting Officer at least 15 working days prior to making any permanent substitutions. The request should contain a detailed explanation of the circumstances necessitating the proposed substitutions, complete resumes for the proposed substitutes, and any additional information requested by the Contracting Officer. The Contracting Officer will notify the contractor within 10 working days after receipt of all required information of the decision on substitutions. The contract will be modified to reflect any approved changes.

H.9 ORGANIZATIONAL CONFLICT OF INTEREST (CAR 1352.209-74) (APR 2010)

(a) Purpose. The purpose of this clause is to ensure that the contractor and its subcontractors:

(1) Are not biased because of their financial, contractual, organizational, or other interests which relate to the work under this contract, and

(2) Do not obtain any unfair competitive advantage over other parties by virtue of their performance of this contract.

(b) Scope. The restrictions described herein shall apply to performance or participation by the contractor, its parents, affiliates, divisions and subsidiaries, and successors in interest (hereinafter collectively referred to as "contractor") in the activities covered by this clause as a prime contractor, subcontractor, co-sponsor, joint venturer, consultant, or in any similar capacity. For the purpose of this clause, affiliation occurs when a business concern is controlled by or has the power to control another or when a third party has the power to control both.

(c) Warrant and Disclosure. The warrant and disclosure requirements of this paragraph apply with full force to both the contractor and all subcontractors. The contractor warrants that, to the best of the contractor's knowledge and belief, there are no relevant facts or circumstances which would give rise to an organizational conflict of interest, as defined in FAR Subpart 9.5, and that the contractor has disclosed all relevant information regarding any actual or potential conflict. The contractor agrees it shall make an immediate and full disclosure, in writing, to the

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Contracting Officer of any potential or actual organizational conflict of interest or the existence of any facts that may cause a reasonably prudent person to question the contractor's impartiality because of the appearance or existence of bias or an unfair competitive advantage. Such disclosure shall include a description of the actions the contractor has taken or proposes to take in order to avoid, neutralize, or mitigate any resulting conflict of interest.

(d) Remedies. The Contracting Officer may terminate this contract for convenience, in whole or in part, if the Contracting Officer deems such termination necessary to avoid, neutralize or mitigate an actual or apparent organizational conflict of interest. If the contractor fails to disclose facts pertaining to the existence of a potential or actual organizational conflict of interest or misrepresents relevant information to the Contracting Officer, the Government may terminate the contract for default, suspend or debar the contractor from Government contracting, or pursue such other remedies as may be permitted by law or this contract.

(e) Subcontracts. The contractor shall include a clause substantially similar to this clause, including paragraphs (f) and (g), in any subcontract or consultant agreement at any tier expected to exceed the simplified acquisition threshold. The terms "contract," "contractor," and "Contracting Officer" shall be appropriately modified to preserve the Government's rights.

(f) Prime Contractor Responsibilities. The contractor shall obtain from its subcontractors or consultants the disclosure required in FAR Part 9.507-1, and shall determine in writing whether the interests disclosed present an actual, or significant potential for, an organizational conflict of interest. The contractor shall identify and avoid, neutralize, or mitigate any subcontractor organizational conflict prior to award of the contract to the satisfaction of the Contracting Officer. If the subcontractor's organizational conflict cannot be avoided, neutralized, or mitigated, the contractor must obtain the written approval of the Contracting Officer prior to entering into the subcontract. If the contractor becomes aware of a subcontractor's potential or actual organizational conflict of interest after contract award, the contractor agrees that the Contractor may be required to eliminate the subcontractor from its team, at the contractor's own risk.

(g) Waiver. The parties recognize that this clause has potential effects which will survive the performance of this contract and that it is impossible to foresee each circumstance to which it might be applied in the future. Accordingly, the contractor may at any time seek a waiver from the Head of the Contracting Activity by submitting such waiver request to the Contracting Officer, including a full written description of the requested waiver and the reasons in support thereof.

H.10 RESTRICTIONS AGAINST DISCLOSURE (CAR 1352.209-72) (APR 2010)

(a) The contractor agrees, in the performance of this contract, to keep the information furnished by the Government or acquired/developed by the contractor in performance of the contract and designated by the Contracting Officer or Contracting Officer's Representative, in

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the strictest confidence. The contractor also agrees not to publish or otherwise divulge such information, in whole or in part, in any manner or form, nor to authorize or permit others to do so, taking such reasonable measures as are necessary to restrict access to such information while in the contractor's possession, to those employees needing such information to perform the work described herein, *i.e.*, on a "need to know" basis. The contractor agrees to immediately notify the Contracting Officer in writing in the event that the contractor determines or has reason to suspect a breach of this requirement has occurred.

(b) The contractor agrees that it will not disclose any information described in subsection (a) to any person unless prior written approval is obtained from the Contracting Officer. The contractor agrees to insert the substance of this clause in any consultant agreement or subcontract hereunder.

H.11 COMPLIANCE WITH LAWS (CAR 1352.209-73) (APR 2010)

The contractor shall comply with all applicable laws, rules and regulations which deal with or relate to performance in accord with the terms of the contract.

H.12 DUPLICATION OF EFFORT (CAR 1352.231-71) (APR 2010)

The contractor hereby certifies that costs for work to be performed under this contract and any subcontracts hereunder are not duplicative of any costs charged against any other Government contract, subcontract, or other Government source. The contractor agrees to advise the Contracting Officer, in writing, of any other Government contract or subcontract it has performed or is performing which involves work directly related to the purpose of this contract. The contractor also certifies and agrees that any and all work performed under this contract shall be directly and exclusively for the use and benefit of the Government, and not incidental to any other work, pursuit, research, or purpose of the contractor, whose responsibility it will be to account for it accordingly.

H.13 HARMLESS FROM LIABILITY

The Contractor shall hold and save the Government, its officers, agents, and employees harmless from liability of any nature or kind, including costs and expenses to which they may be subject, for or on account of any or all suits or damages of any character whatsoever resulting from injuries or damages sustained by any person or persons or property by virtue of performance of this contract, arising or resulting in whole or in part from the fault, negligence, wrongful act or wrongful omission of the Contractor, or any subcontractor, their employees, and agents.

H.14 CONTRACTOR IDENTIFICATION RESPONSIBILITIES

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(a) All Contractor personnel attending meetings, answering Government telephones, and working in other situations where their Contractor status is not obvious to third parties, are required to identify themselves as such to avoid creating an impression in the minds of the public that they are Government officials.

(b) All documents or reports produced by the Contractor shall be suitably marked as Contractor products or that Contractor participation is appropriately identified.

H.15 NOTICE REQUIREMENT

The Contractor agrees that it will immediately inform the Contracting Officer and the Contracting Officer's Representative in the event that the Contractor's Chairman of the Board of Directors initiates any investigation by an independent auditor of potential corporate insolvency.

H.16 CERTIFICATION REGARDING TERRORIST FINANCING IMPLEMENTING EXECUTIVE ORDER 13224

(a) By signing and submitting this application, the prospective Contractor provides the certification set out below:

(1) The Contractor, to the best of its current knowledge, did not provide, within the previous ten years, and will take all reasonable steps to ensure that it does not and will not knowingly provide, material support or resources to any individual or entity that commits, attempts to commit, advocates, facilitates or participates in terrorist acts, or has committed, attempted to commit, facilitated or participated in terrorist acts, as that term is defined in Executive Order 13224.

(2) Before providing any material support or resources to an individual or entity, the Contractor will consider all information about that individual or entity of which it is aware and all public information that is reasonably available to it or of which it must be aware.

(3) The Contractor also will implement reasonable monitoring and oversight procedures to safeguard against assistance being diverted to support terrorist activity.

(b) For the purposes of this certification, the Contractor's obligations under paragraph "a" are not applicable to the procurement of goods and/or services by the Contractor that are acquired in the ordinary course of business through contract or purchase, e.g., utilities, rents, office supplies, gasoline, unless the Contractor has reason to believe that a vendor or supplier of such goods and services commits, attempts to commit, advocates, facilitates or participates in terrorist acts, or has committed, attempted to commit, facilitated or participated in terrorist acts.

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(c) This certification is an express term and condition of any agreement issued as a result of this application, and any violation of it shall be grounds for unilateral termination of the agreement by DoC prior to the end of its term.

SECTION I - CONTRACT CLAUSES

FEDERAL ACQUISITION REGULATION (FAR)

I.1 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this address:

<https://www.acquisition.gov/far/>

I.2 52.202-1 DEFINITIONS (JUL 2004)

I.3 52.203-3 GRATUITIES (APR 1984)

I.4 52.203-5 COVENANT AGAINST CONTINGENT FEES (APR 1984)

I.5 52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (JUL 1995)

I.6 52.203-7 ANTI-KICKBACK PROCEDURES (JUL 1995)

I.7 52.203-8 CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997)

I.8 52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (SEPT 2007)

I.9 52.203-13 CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT (APR 2010)

I.10 52.204-2 SECURITY REQUIREMENTS (AUG 2000)

I.11 52.204-4 PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER (AUG 2000)

I.12 52.214-34 SUBMISSION OF OFFERS IN THE ENGLISH LANGUAGE (APR 1991)

I.13 52.215-8 ORDER OF PRECEDENCE—UNIFORM CONTRACT FORMAT (OCT 1997)

I.14 52.216-7 ALLOWABLE COST AND PAYMENT (JUN 2011)

I.15 RESERVED

I.16 52.222-21 PROHIBITION OF SEGREGATED FACILITIES (FEB 1999)

I.17 52.222-26 EQUAL OPPORTUNITY (MAR 2007)

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- I.18 52.222.35 EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS (SEP 2006)
- I.19 52.222-36 AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (JUN 1998)
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- I.25 52.225-13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (JUN 2008)
- I.26 52.227-1 AUTHORIZATION AND CONSENT (DEC 2007)
- I.27 52.227-2 NOTICE OF ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (DEC 2007)
- I.28 52.227-3 PATENT INDEMNITY (APR 1984)
- I.29 52.227-14 RIGHTS IN DATA—GENERAL, ALTERNATES I, II, III, IV (DEC 2007)
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- I.31 52.232-20 LIMITATION OF COST (APR 1984)
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- I.35 52.233-1 DISPUTES (JUL 2002), ALTERNATE I (DEC 1991)
- I.36 52.233-3 PROTEST AFTER AWARD (AUG 1996)

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- I.37 52.233-4 APPLICABLE LAW FOR BREACH OF CONTRACT CLAIM (OCT 2004)
- I.38 52.239-1 PRIVACY OR SECURITY SAFEGUARDS (AUG 1996)
- I.39 52.242-1 NOTICE OF INTENT TO DISALLOW COSTS (APR 1984)
- I.40 52.242-4 CERTIFICATION OF FINAL INDIRECT COSTS (JAN 1997)
- I.41 52.242-13 BANKRUPTCY (JUL 1995)
- I.42 52.242-14 SUSPENSION OF WORK (APR 1984)
- I.43 52.242-15 STOP-WORK ORDER (AUG 1989)
- I.44 52.243-1 CHANGES-FIXED PRICE (AUG 1987) Alternate I (APR 1984)
- I.45 52.243-2 CHANGES--COST-REIMBURSEMENT (AUG 1987), ALTERNATE I (APR 1984)
- I.46 52.244-2 SUBCONTRACTS (OCT 2010)
- I.47 52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS (DEC 2010)
- I.48 52.245-1 GOVERNMENT PROPERTY (APR 2012)
- I.49 52.246-20 WARRANTY OF SERVICES (MAY 2001)
[The Contracting Officer shall give written notice of any defect or nonconformance to the Contractor within 120 days from the date of acceptance by the Government.]
- I.50 52.246-25 LIMITATION OF LIABILITY—SERVICES (FEB 1997)
- I.51 52.249-2 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (MAY 2004) ALT II (SEP 1996)
- I.52 52.249-5 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (EDUCATIONAL AND OTHER NONPROFIT INSTITUTIONS) (SEP 1996)
- I.53 52.249-6 TERMINATION (COST REIMBURSEMENT) (MAY 2004) (ALT V) (SEP 1996)
- I.54 52.249-14 EXCUSABLE DELAYS (APR 1984)
- I.55 52.253-1 COMPUTER GENERATED FORMS (JAN 1991)

CLAUSES INCORPORATED IN FULL TEXT

I.56 52.204-7 CENTRAL CONTRACTOR REGISTRATION (FEB 2012)

(a) Definitions. As used in this clause—

“Central Contractor Registration (CCR) database” means the primary Government repository for Contractor information required for the conduct of business with the Government.

“Data Universal Numbering System (DUNS) number” means the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B) to identify unique business entities.

“Data Universal Numbering System+4 (DUNS+4) number” means the DUNS number means the number assigned by D&B plus a 4-character suffix that may be assigned by a business concern. (D&B has no affiliation with this 4-character suffix.) This 4-character suffix may be assigned at the discretion of the business concern to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see the FAR at Subpart 32.11) for the same concern.

“Registered in the CCR database” means that—

(1) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, into the CCR database; and

(2) The Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service (IRS), and has marked the record “Active”. The Contractor will be required to provide consent for TIN validation to the Government as a part of the CCR registration process.

(b)

(1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the CCR database prior to award, during performance, and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation.

(2) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation “DUNS” or “DUNS+4” followed by the DUNS or DUNS+4 number that identifies the offeror’s name and address exactly as stated in the offer. The DUNS number will be used by the Contracting Officer to verify that the offeror is registered in the CCR database.

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(c) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one.

(1) An offeror may obtain a DUNS number—

(i) Via the internet at <http://fedgov.dnb.com/webform> or if the offeror does not have internet access, it may call Dun and Bradstreet at 1-866-705-5711 if located within the United States; or

(ii) If located outside the United States, by contacting the local Dun and Bradstreet office. The offeror should indicate that it is an offeror for a U.S. Government contract when contacting the local Dun and Bradstreet office.

(2) The offeror should be prepared to provide the following information:

(i) Company legal business name.

(ii) Tradestyle, doing business, or other name by which your entity is commonly recognized.

(iii) Company physical street address, city, state and Zip Code.

(iv) Company mailing address, city, state and Zip Code (if separate from physical).

(v) Company telephone number.

(vi) Date the company was started.

(vii) Number of employees at your location.

(viii) Chief executive officer/key manager.

(ix) Line of business (industry).

(x) Company Headquarters name and address (reporting relationship within your entity).

(d) If the Offeror does not become registered in the CCR database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered Offeror.

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(e) Processing time, which normally takes 48 hours, should be taken into consideration when registering. Offerors who are not registered should consider applying for registration immediately upon receipt of this solicitation.

(f) The Contractor is responsible for the accuracy and completeness of the data within the CCR database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the CCR database to ensure it is current, accurate and complete. Updating information in the CCR does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(g)

(1)

(i) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in Subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to:

(A) Change the name in the CCR database;

(B) Comply with the requirements of Subpart 42.12 of the FAR;

(C) Agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (g)(1)(i) of this clause, or fails to perform the agreement at paragraph (g)(1)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the CCR information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

(2) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the CCR record to reflect an assignee for the purpose of

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assignment of claims (see FAR Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the CCR database. Information provided to the Contractor's CCR record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of this contract.

(h) Offerors and Contractors may obtain information on registration and annual confirmation requirements via the CCR accessed through <https://www.acquisition.gov> or by calling 1-888-227-2423, or 269-961-5757.

I.57 52.216-11 COST CONTRACT – NO FEE (APR 1984)

(a) The Government shall not pay the Contractor a fee for performing this contract.

I.58 52.217-8 OPTION TO EXTEND SERVICES (NOV 1999)

The Government may require continued performance of any services within the limits and at the rates specified in the contract. The option provision may be exercised more than once, but the total extension of performance hereunder shall not exceed 6 months. The Contracting Officer may exercise the option by written notice to the Contractor within 15 calendar days of expiration of the contract.

I.59 52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT (MAR 2000)

(a) The Government may extend the term of this contract by written notice to the Contractor **within 15 calendar days before the expiration of the contract**; provided that the Government gives the Contractor a preliminary written notice of its intent to extend **at least 30 calendar days before the contract expires**. The preliminary notice does not commit the Government to an extension.

(b) If the Government exercises this option, the extended contract shall be considered to include this option clause.

(c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed seven years.

I.60 52.233-2 SERVICE OF PROTEST (SEP 2006)

(a) Protests, as defined in section 31.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the Government Accountability Office (GAO), shall be served on the Contracting Officer addressed as follows: Mona-Lisa Dunn, Contracting Officer, 1401 Constitution Avenue, NW, Room 6521, Washington, DC 20230 by obtaining written and dated acknowledgment of receipt from Mona-Lisa Dunn.

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(b) The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.

I.61 52.237-3 CONTINUITY OF SERVICES (JAN 1991)

(a) The Contractor recognizes that the services under this contract are vital to the Government and must be continued without interruption and that, upon contract expiration, a successor, either the Government or another contractor, may continue them. The Contractor agrees to --

(1) Furnish phase-in training; and

(2) Exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor.

(b) The Contractor shall, upon the Contracting Officer's written notice,

(1) furnish phase-in, phase-out services for up to 90 days after this contract expires and

(2) negotiate in good faith a plan with a successor to determine the nature and extent of phase-in, phase-out services required.

The plan shall specify a training program and a date for transferring responsibilities for each division of work described in the plan, and shall be subject to the Contracting Officer's approval. The Contractor shall provide sufficient experienced personnel during the phase-in, phase-out period to ensure that the services called for by this contract are maintained at the required level of proficiency.

(c) The Contractor shall allow as many personnel as practicable to remain on the job to help the successor maintain the continuity and consistency of the services required by this contract. The Contractor also shall disclose necessary personnel records and allow the successor to conduct on-site interviews with these employees. If selected employees are agreeable to the change, the Contractor shall release them at a mutually agreeable date and negotiate transfer of their earned fringe benefits to the successor.

(d) The Contractor shall be reimbursed for all reasonable phase-in, phase-out costs (i.e., costs incurred within the agreed period after contract expiration that result from phase-in, phase-out operations) and a fee (profit) not to exceed a pro rata portion of the fee (profit) under this contract.

COMMERCE ACQUISITION REGULATION (CAR) CLAUSES INCORPORATED IN FULL TEXT

I.62 1352.208-70 RESTRICTIONS ON PRINTING AND DUPLICATING (APR 2010)

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(a) The contractor is authorized to duplicate or copy production units provided the requirement does not exceed 5,000 production units of any one page or 25,000 production units in the aggregate of multiple pages. Such pages may not exceed a maximum image size of 10-3/4 by 14-1/4 inches. A "production unit" is one sheet, size 8-1/2 x 11 inches (215 x 280 mm), one side only, and one color ink. Production unit requirements are outlined in the Government Printing and Binding Regulations.

(b) This clause does not preclude writing, editing, preparation of manuscript copy, or preparation of related illustrative material as a part of this contract, or administrative duplicating/copying (for example, necessary forms and instructional materials used by the contractor to respond to the terms of the contract).

(c) Costs associated with printing, duplicating, or copying in excess of the limits in paragraph (a) of this clause are unallowable without prior written approval of the Contracting Officer. If the contractor has reason to believe that any activity required in fulfillment of the contract will necessitate any printing or substantial duplicating or copying, it shall immediately provide written notice to the Contracting Officer and request approval prior to proceeding with the activity. Requests will be processed by the Contracting Officer in accordance with FAR 8.802.

(d) The contractor shall include in each subcontract which may involve a requirement for any printing, duplicating, and copying in excess of the limits specified in paragraph (a) of this clause, a provision substantially the same as this clause, including this paragraph (d).

I.63 1352.209-72 RESTRICTIONS AGAINST DISCLOSURE (APR 2010)

(a) The contractor agrees, in the performance of this contract, to keep the information furnished by the Government or acquired/developed by the contractor in performance of the contract and designated by the Contracting Officer or Contracting Officer's Representative, in the strictest confidence. The contractor also agrees not to publish or otherwise divulge such information, in whole or in part, in any manner or form, nor to authorize or permit others to do so, taking such reasonable measures as are necessary to restrict access to such information while in the contractor's possession, to those employees needing such information to perform the work described herein, *i.e.*, on a "need to know" basis. The contractor agrees to immediately notify the Contracting Officer in writing in the event that the contractor determines or has reason to suspect a breach of this requirement has occurred.

(b) The contractor agrees that it will not disclose any information described in subsection (a) to any person unless prior written approval is obtained from the Contracting Officer. The contractor agrees to insert the substance of this clause in any consultant agreement or subcontract hereunder.

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I.64 1352.209-73 COMPLIANCE WITH THE LAWS (APR 2010)

The contractor shall comply with all applicable laws, rules and regulations which deal with or relate to performance in accord with the terms of the contract.

I.65 1352.233-70 AGENCY PROTESTS (APR 2010)

(a) An agency protest may be filed with either: (1) The Contracting Officer, or (2) at a level above the Contracting Officer, with the appropriate agency Protest Decision Authority. See 64 FR 16,651 (April 6, 1999).

(b) Agency protests filed with the Contracting Officer shall be sent to the following address:

Ms. Mona-Lisa Dunn, Contracting Officer
U.S. Department of Commerce
Office of Acquisition Management
Commerce Acquisition Solutions, Room 6521
14th and Constitution Avenue, NW
Washington, D.C. 20230
Fax: 202-482-1470
Email: mdunn@doc.gov

(c) Agency protests filed with the agency Protest Decision Authority shall be sent to the following address:

Mr. Mark Langstein, Esquire
U.S. Department of Commerce
Office of the General Counsel
Contract Law Division--Room 5893
Herbert C. Hoover Building
14th Street and Constitution Avenue, NW
Washington, D.C. 20230.
FAX: (202) 482-5858

(d) A complete copy of all agency protests, including all attachments, shall be served upon the Contract Law Division of the Office of the General Counsel within one day of filing a protest with either the Contracting Officer or the Protest Decision Authority.

(e) Service upon the Contract Law Division shall be made as follows: U.S. Department of Commerce, Office of the General Counsel, Chief, Contract Law Division, Room 5893, Herbert C. Hoover Building, 14th Street and Constitution Avenue, NW., Washington, DC 20230. FAX: (202) 482-5858.

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I.66 1352.233-71 GAO AND COURT OF FEDERAL CLAIMS PROTESTS (APR 2010)

(a) A protest may be filed with either the Government Accountability Office (GAO) or the Court of Federal Claims unless an agency protest has been filed.

(b) A complete copy of all GAO or Court of Federal Claims protests, including all attachments, shall be served upon (i) the Contracting Officer, and (ii) the Contract Law Division of the Office of the General Counsel, within one day of filing a protest with either GAO or the Court of Federal Claims.

(c) Service upon the Contract Law Division shall be made as follows: U.S. Department of Commerce, Office of the General Counsel, Chief, Contract Law Division, Room 5893, Herbert C. Hoover Building, 14th Street and Constitution Avenue, NW., Washington, DC 20230. FAX: (202) 482-5858.

I.67 1352.237-71 SECURITY PROCESSING REQUIREMENTS - LOW RISK CONTRACTS (APR 2010)

(a) Investigative Requirements for Low Risk Contracts. All contractor (and subcontractor) personnel proposed to be employed under a Low Risk contract shall undergo security processing by the Department's Office of Security before being eligible to work on the premises of any Department of Commerce owned, leased, or controlled facility in the United States or overseas, or to obtain access to a Department of Commerce IT system. All Department of Commerce security processing pertinent to this contract will be conducted at no cost to the contractor.

(b) Investigative requirements for Non-IT Service Contracts are:

- (1) Contracts more than 180 days – National Agency Check and Inquiries (NACI)
- (2) Contracts less than 180 days – Special Agency Check (SAC)

(c) Investigative requirements for IT Service Contracts are:

- (1) Contracts more than 180 days – National Agency Check and Inquiries (NACI)
- (2) Contracts less than 180 days – National Agency Check and Inquiries (NACI)

(d) In addition to the investigations noted above, non-U.S. citizens must have a background check that includes an Immigration and Customs Enforcement agency check.

(e) Additional Requirements for Foreign Nationals (Non-U.S. Citizens). Non-U.S. citizens (lawful permanent residents) to be employed under this contract within the United States must have:

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- (1) Official legal status in the United States;
- (2) Continuously resided in the United States for the last two years; and
- (3) Obtained advance approval from the servicing Security Officer in consultation with the Office of Security headquarters.

(f) DoC Security Processing Requirements for Low Risk Non-IT Service Contracts. Processing requirements for Low Risk non-IT Service Contracts are as follows:

- (1) Processing of a NACI is required for all contract employees employed in Low Risk non-IT service contracts for more than 180 days. The Contracting Officer's Representative (COR) will invite the prospective contractor into e-QIP to complete the SF-85. The contract employee must also complete fingerprinting.
- (2) Contract employees employed in Low Risk non-IT service contracts for less than 180 days require processing of Form OFI-86C Special Agreement Check (SAC), to be processed. The Sponsor will forward a completed Form OFI-86C, FD-258, Fingerprint Chart, and Credit Release Authorization to the servicing Security Officer, who will send the investigative packet to the Office of Personnel Management for processing.
- (3) Any contract employee with a favorable SAC who remains on the contract over 180 days will be required to have a NACI conducted to continue working on the job site.
- (4) For Low Risk non-IT service contracts, the scope of the SAC will include checks of the Security/Suitability Investigations Index (SII), other agency files (INVA), Defense Clearance Investigations Index (DCII), FBI Fingerprint (FBIF), and the FBI Information Management Division (FBIN).
- (5) In addition, for those individuals who are not U.S. citizens (lawful permanent residents), the Sponsor may request a Customs Enforcement SAC on Form OFI-86C, by checking Block #7, Item I. In Block 13, the Sponsor should enter the employee's Alien Registration Receipt Card number to aid in verification.
- (6) Copies of the appropriate forms can be obtained from the Sponsor or the Office of Security. Upon receipt of the required forms, the Sponsor will forward the forms to the servicing Security Officer. The Security Officer will process the forms and advise the Sponsor and the Contracting Officer whether the contract employee can commence work prior to completion of the suitability determination based on the type of work and risk to the facility (i.e., adequate controls and restrictions are in place). The Sponsor will notify the contractor of favorable or unfavorable findings of

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the suitability determinations. The Contracting Officer will notify the contractor of an approved contract start date.

(g) Security Processing Requirements for Low Risk IT Service Contracts. Processing of a NACI is required for all contract employees employed under Low Risk IT service contracts.

- (1) Contract employees employed in all Low Risk IT service contracts will require a National Agency Check and Inquiries (NACI) to be processed. The Contracting Officer's Representative (COR) will invite the prospective contractor into e-QIP to complete the SF-85. Fingerprints and a Credit Release Authorization must be completed within three working days from start of work, and provided to the Servicing Security Officer, who will forward the investigative package to OPM.
- (2) For Low Risk IT service contracts, individuals who are not U.S. citizens (lawful permanent residents) must undergo a NACI that includes an agency check conducted by the Immigration and Customs Enforcement Service. The Sponsor must request the ICE check as a part of the NACI.

(h) Notification of Disqualifying Information. If the Office of Security receives disqualifying information on a contract employee, the Sponsor and Contracting Officer will be notified. The Sponsor shall coordinate with the Contracting Officer for the immediate removal of the employee from duty requiring access to Departmental facilities or IT systems. Contract employees may be barred from working on the premises of a facility for any of the following reasons:

- (1) Conviction of a felony crime of violence or of a misdemeanor involving moral turpitude.
- (2) Falsification of information entered on security screening forms or of other documents submitted to the Department.
- (3) Improper conduct once performing on the contract, including criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct or other conduct prejudicial to the Government regardless of whether the conduct was directly related to the contract.
- (4) Any behavior judged to pose a potential threat to Departmental information systems, personnel, property, or other assets.

(i) Failure to comply with security processing requirements may result in termination of the contract or removal of contract employees from Department of Commerce facilities or denial of access to IT systems.

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(j) Access to National Security Information. Compliance with these requirements shall not be construed as providing a contract employee clearance to have access to national security information.

(k) The contractor shall include the substance of this clause, including this paragraph, in all subcontracts.

I.68 1352.242-70 POSTAWARD CONFERENCE (APR 2010)

A post award conference with the successful Offeror may be required. If required, the Contracting Officer will contact the contractor within 10 days of contract award to arrange the conference.

I.69 1352.246-70 PLACE OF ACCEPTANCE (APR 2010)

(a) The Contracting Officer or the duly authorized representative will accept supplies and services to be provided under this contract.

(b) The place of acceptance will be:
U.S Department of Commerce – NTIA
Office of International Affairs
1401 Constitution Avenue, NW,
Room 4701
Washington, DC 20230

I.70 1352.270-70 PERIOD OF PERFORMANCE (APR 2010)

(a) The base period of performance of this contract is from October 1, 2012 through September 30, 2015. If an option is exercised, the period of performance shall be extended through the end of that option period.

(b) The option periods that may be exercised are as follows:

Period	Start Date	End Date
Option I	October 1, 2015	September 30, 2017
Option II	October 1, 2017	September 30, 2019

(c) The notice requirements for unilateral exercise of option periods are set out in FAR 52.217-9 (see Paragraph I.59 above).

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EXHIBIT 2

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Plan to Transition Stewardship of Key Internet Functions Sent to the U.S. Government

Culmination of a Two Year Effort by the Global Internet Community

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Marrakech, Morocco... Internet Corporation for Assigned Names and Numbers (ICANN (Internet Corporation for Assigned Names and Numbers)) Board Chair Dr. Stephen D. Crocker today submitted to the U.S. Government a plan developed by the international Internet community that, if approved, will lead to global stewardship of some key technical Internet functions.

"This plan is a testament to the hard work of the global Internet community and the strength of the multistakeholder model," said Crocker, who transmitted the plan on behalf of the global community. "The plan has now been sent to the U.S. Government for its review, and assuming it meets the necessary criteria, we will have reached an historic moment in the history of the Internet."

.....
The plan provides a comprehensive package to transition the U.S. Government's stewardship of these technical functions, called the IANA (Internet Assigned Numbers Authority) (Internet Assigned Numbers Authority), which are critical to the Internet's smooth operation. It also proposes ways to enhance ICANN (Internet Corporation for Assigned Names and Numbers)'s accountability as a fully independent organization. The transition is the final step in the long-anticipated privatization of the Internet's Domain Name (Domain Name) System (DNS (Domain Name System)), first outlined when ICANN (Internet Corporation for Assigned Names and Numbers) was incorporated in 1998.

The ICANN (Internet Corporation for Assigned Names and Numbers) Board received the package from the community during its 55th public meeting in Morocco, and today transmitted it to the U.S. National Telecommunication and Information Administration (NTIA (US National Telecommunications and Information Agency)).

On 14 March 2014, NTIA (US National Telecommunications and Information Agency) announced its desire to transition its stewardship of the IANA (Internet Assigned Numbers Authority) functions to the global multistakeholder community. The package is the result of an inclusive, global discussion amongst representatives from government, large and small business, technical experts, civil society, researchers, academics and end users.

"The Internet community has exhibited remarkable dedication to the IANA (Internet Assigned Numbers Authority) stewardship transition because we know just how important it is to complete," said Alissa Cooper, Chair of the IANA (Internet Assigned Numbers Authority) Stewardship Transition Coordination Group (ICG (IANA Stewardship Transition Coordination Group)) that coordinated the development of the transition proposal. "Internet users the world over stand to benefit from its stability, security, and accountability enhancements to Internet governance once the proposal takes effect."

The global Internet community has worked tirelessly to develop a plan that meets NTIA (US National Telecommunications and Information Agency)'s criteria, logging more than 600 meetings and calls, more than 32,000 mailing list exchanges and more than 800 working hours.

The package combines the technical requirements of a transition coordinated by the IANA (Internet Assigned Numbers Authority) Stewardship Transition Group (ICG (IANA Stewardship Transition Coordination Group)) and enhancements to ICANN (Internet Corporation for Assigned Names and Numbers)'s accountability identified by the Cross Community Working Group on Enhancing ICANN (Internet Corporation for Assigned Names and Numbers) Accountability (CCWG-Accountability). The two groups were composed of volunteers representing a broad range of interests from the wider multistakeholder Internet community.

"This plan enjoys the broadest possible support from this very diverse community and I'm confident it will meet NTIA (US National Telecommunications and Information Agency)'s criteria," said Thomas Rickert, one of the CCWG-Accountability co-Chairs. "The work of this group shows just how well the inclusive multistakeholder approach is working."

The U.S. Government will now review the package to ensure that it meets NTIA (US National Telecommunications and Information Agency)'s criteria. If approved, implementation of the plan is expected to be completed prior to the expiration of the contract between NTIA (US National Telecommunications and Information Agency) and ICANN (Internet Corporation for Assigned Names and Numbers) in September 2016.

##

To see further comments (quotes) on the transmission of the package go here: <https://www.icann.org/resources/pages/iana-stewardship-final-package-quotes> ([/resources/pages/iana-stewardship-final-package-quotes](https://www.icann.org/resources/pages/iana-stewardship-final-package-quotes)) [PDF, 46 KB]

To access the media contacts of Internet organizations involved, go here: <https://www.icann.org/resources/pages/iana-stewardship-final-package-press-contacts> ([/resources/pages/iana-stewardship-final-package-press-contacts](https://www.icann.org/resources/pages/iana-stewardship-final-package-press-contacts)) [PDF, 284 KB]

To read the IANA (Internet Assigned Numbers Authority) Stewardship Transition Proposal, go here: <https://www.icann.org/en/system/files/files/iana-stewardship-transition-proposal-10mar16-en.pdf> ([/en/system/files/files/iana-stewardship-transition-proposal-10mar16-en.pdf](https://www.icann.org/en/system/files/files/iana-stewardship-transition-proposal-10mar16-en.pdf)) [PDF, 2.32 MB]

To read the Enhancing ICANN (Internet Corporation for Assigned Names and Numbers) Accountability Final Report, go here: <https://www.icann.org/en/system/files/files/ccwg-accountability-supp-proposal-work-stream-1-recs-23feb16-en.pdf> ([/en/system/files/files/ccwg-accountability-supp-proposal-work-stream-1-recs-23feb16-en.pdf](https://www.icann.org/en/system/files/files/ccwg-accountability-supp-proposal-work-stream-1-recs-23feb16-en.pdf)) [PDF, 6.03 MB]

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EXHIBIT 3

**INTERNATIONAL CENTRE FOR DISPUTE RESOLUTION (ICDR)
A Division of the American Arbitration Association (AAA)
CASE # 50 117 T 1083 13**

In the matter of an Independent Review Process pursuant to the Internet Corporation for Assigned Names and Number's (ICANN's) Bylaws, the *International Dispute Resolution Procedures* of the ICDR, and the *Supplementary Procedures for ICANN Independent Review Process*

Between: DotConnectAfrica (DCA) Trust;
("Claimant")

Represented by Mr. Arif H. Ali, Ms. Marguerite Walter and Ms. Erica Franzetti of Weil, Gotshal, Manges, LLP located at 1300 Eye Street, NW, Suite 900, Washington, DC 2005, U.S.A.

And

Internet Corporation for Assigned Names and Numbers (ICANN);
("Respondent")

Represented by Mr. Jeffrey A. LeVee of Jones Day, LLP located at 555 South Flower Street, Fiftieth Floor, Los Angeles, CA 90071, U.S.A.

Claimant and Respondent will together be referred to as "Parties".

DECISION ON INTERIM MEASURES OF PROTECTION

Babak Barin, *Chair*
Prof. Catherine Kessedjian
Hon. Richard C. Neal (Ret.)

12 May 2014

BACKGROUND

1. DotConnectAfrica (“DCA”) Trust (“Claimant”), is a non-profit organization established under the laws of the Republic of Mauritius on 15 July 2010 with its registry operation – DCA Registry Services (Kenya) Limited – as its principal place of business in Nairobi, Kenya. DCA was formed with the charitable purpose of, among other things, advancing information technology education in Africa and providing a continental Internet domain name to provide access to internet services for the people of Africa and for the public good.
2. In March 2012, DCA Trust applied to the Internet Corporation for Assigned Names and Numbers (“ICANN”) for the delegation of the .Africa top-level domain name in its 2012 General Top-Level Domains (“gTLD”) Internet Expansion Program (the “New gTLD Program”), an internet resource available for delegation under that program.
3. ICANN (“Respondent”) is a non-profit corporation established under the laws of the State of California, U.S.A., on 30 September 1998 and headquartered in Marina del Rey, California. According to its Articles of Incorporation, ICANN was established for the benefit of the Internet community as a whole and is tasked with carrying out its activities in conformity with relevant principles of international law, international conventions, and local law.
4. On 4 June 2013, the ICANN Board New gTLD Program Committee (“NGPC”) posted a notice that it had decided not to accept DCA’s application.
5. On 19 June 2013, DCA Trust filed a request for reconsideration by the ICANN Board Governance Committee (“BGC”), which denied the request on 1 August 2013.
6. On 19 August 2013, DCA Trust informed ICANN of its intention to seek relief before an Independent Review Panel under ICANN’s Bylaws. Between August and October 2013, DCA Trust and ICANN participated in a Cooperative Engagement Process (“CEP”) to try and resolve the issues relating to DCA Trust’s application. Despite several meetings, however, no resolution was reached.
7. On 24 October 2013, DCA Trust filed a Notice of Independent Review Process with the ICDR in accordance with Article IV, Section 3, of ICANN’s Bylaws.

INDEPENDENT REVIEW PROCESS

8. According to DCA Trust, the central dispute between it and ICANN in the Independent Review Process invoked by DCA Trust in October 2013 and

described in its Amended Notice of Independent Review Process submitted to ICANN on 10 January 2014 arises out of:

“(1) ICANN’s breaches of its Articles of Incorporation, Bylaws, international and local law, and other applicable rules in the administration of applications for the .AFRICA top-level domain name in its 2012 General Top-Level Domains (“gTLD”) Internet Expansion Program (the “New gTLD Program”); and (2) ICANN’s wrongful decision that DCA’s application for .AFRICA should not proceed [...].”¹

9. According to DCA Trust, “ICANN’s administration of the New gTLD Program and its decision on DCA’S application were unfair, discriminatory, and lacked appropriate due diligence and care, in breach of ICANN’s Articles of Incorporation and Bylaws.”² DCA Trust also advanced that “ICANN’s violations materially affected DCA’s right to have its application processed in accordance with the rules and procedures laid out by ICANN for the New gTLD Program.”³
10. In its Response to Claimant’s Amended Notice submitted to DCA Trust on 10 February 2014⁴, ICANN submitted that in these proceedings, “DCA challenges the 4 June 2013 decision of the ICANN Board New gTLD Program Committee (“NGPC”), which has delegated authority from the ICANN Board to make decisions regarding the New gTLD. In that decision, the NGPC unanimously accepted advice from ICANN’s Governmental Advisory Committee (“GAC”) that DCA application for .AFRICA should not proceed. DCA argues that the NGPC should not have accepted the GAC’s advice. DCA also argues that ICANN’s subsequent decision to reject DCA’s Request for Reconsideration was improper.”⁵
11. ICANN argued that the challenged decisions of ICANN’s Board “were well within the Board’s discretion” and the Board “did exactly what it was supposed to do under its Bylaws, its Articles of Incorporation, and the Applicant Guidebook (“Guidebook”) that the Board adopted for implementing the New gTLD Program.”⁶
12. Specifically, ICANN also advanced that “ICANN properly investigated and rejected DCA’s assertion that two of ICANN’s Board members had conflicts of interest with regard to the .AFRICA applications, [...] numerous African

¹ Claimant’s Amended Notice of Independent Review Process, *para.* 2.

² *Ibid.*

³ *Ibid.*

⁴ ICANN’s Response to Claimant’s Amended Notice contains a typographical error, it is dated “February 10, 2013” rather than 2014.

⁵ ICANN’s Response to Claimant’s Amended Notice, *para.* 4

⁶ *Ibid.* *para.* 5

countries issued “warnings” to ICANN regarding DCA’s application, a signal from those governments that they had serious concerns regarding DCA’s application; following the issuance of those warnings, the GAC issued “consensus advice” against DCA’s application; ICANN then accepted the GAC’s advice, which was entirely consistent with ICANN’s Bylaws and the Guidebook; [and] ICANN properly denied DCA’s Request for Reconsideration.”⁷

13. In short, ICANN argued that in these proceedings, “the evidence establishes that the process worked exactly as it was supposed to work.”⁸

REQUEST FOR INTERIM MEASURES OF PROTECTION

14. In an effort to safeguard its rights pending the ongoing constitution of the IRP Panel, on 22 January 2014, DCA Trust wrote to ICANN requesting that it immediately cease any further processing of all applications for the delegation of the .AFRICA gTLD, failing which DCA Trust would seek emergency relief under Article 37 of the ICDR Rules. In addition, DCA Trust indicated that it believed it had the right to seek such relief because there is no standing panel (as anticipated in the Supplementary Procedures for ICANN Independent Review Process), which would otherwise hear requests for emergency relief.

15. In response, in an email dated 5 February 2014, ICANN wrote:

“Although ICANN typically is refraining from further processing activities in conjunction with pending gTLD applications where a competing applicant has a pending reconsideration request, ICANN does not intend to refrain from further processing of applications that relate in some way to pending independent review proceedings. In this particular instance, ICANN believes that the grounds for DCA’s IRP are exceedingly weak, and that the decision to refrain from the further processing of other applications on the basis of the pending IRP would be unfair to others.”⁹

16. In its Request for Emergency Arbitrator and Interim Measures of Protection subsequently submitted to ICANN on 28 March 2014, DCA Trust argued, *inter alia*, that, “in an effort to preserve its rights, in January 2014, DCA requested that ICANN suspend its processing of applications for .AFRICA during the pendency of this proceeding. ICANN, however, summarily refused to do so.”¹⁰

⁷ *Ibid.*

⁸ *Ibid. para. 6*

⁹ ICANN counsel’s email to DCA Trust counsel dated 5 February 2014.

¹⁰ Request for Emergency Arbitrator and Interim Measures of Protection, *para. 3*

17. DCA Trust also argued that “on 23 March 2014, DCA became aware that ICANN intended to sign an agreement with DCA’s competitor (a South African company called ZACR) on 26 March 2014 in Beijing [...] Immediately upon receiving this information, DCA contacted ICANN and asked it to refrain from signing the agreement with ZACR in light of the fact that this proceeding was still pending. Instead, according to ICANN’s website, ICANN *signed its agreement with ZACR the very next day, two days ahead of plan, on 24 March instead of 26 March.*”¹¹
18. According to DCA Trust, that same day, “ICANN then responded to DCA’s request by presenting the execution of the contract as a *fait accompli*, arguing that DCA should have sought to stop ICANN from proceeding with ZACR’s application, as ICANN had already informed DCA of its intention [to] ignore its obligations to participate in this proceeding in good faith.”¹² DCA Trust also argued that on 25 March 2014, as per ICANN’s email to the ICDR, “ICANN for the first time informed DCA that it would accept the application of Article 37 [of the ICDR International Dispute Resolution Procedures, amended and effective June 1, 2009 (“ICDR Rules”)] to this proceeding contrary to the express provisions of the Supplementary Procedures of ICANN has put in place for the IRP Process.”¹³
19. In its Request, DCA Trust argued that it “is entitled to an accountability proceeding with legitimacy and integrity, with the capacity to provide a meaningful remedy. [...] DCA has requested the opportunity to compete for rights to .AFRICA pursuant to the rules that ICANN put into place. Allowing ICANN to delegate .AFRICA to DCA’s only competitor – which took actions that were instrumental in the process leading to ICANN’s decision to reject DCA’s application – would eviscerate the very purpose of this proceeding and deprive DCA of its rights under ICANN’s own constitutive instruments and international law.”¹⁴
20. Finally, DCA Trust requested, among other things, the following interim relief:
- a. An order compelling ICANN to refrain from any further steps toward delegation of the .AFRICA gTLD, including but not limited to execution or assessment of pre-delegation testing, negotiations or discussions relating to delegation with the entity ZACR or any of its officers or agents; [...]¹⁵

¹¹ *Ibid.*

¹² *Ibid.*

¹³ *Ibid.*, para. 4.

¹⁴ *Ibid.*, para. 5.

¹⁵ *Ibid.*, para. 6.

21. In its Response to DCA Trust's Request for Emergency Arbitrator and Interim Measures of Protection submitted on 4 April 2014, ICANN urged that DCA's request for a stay be denied. ICANN also reproached DCA for having waited five months before initiating its Request for Interim Measures of Protection pursuant to Article 37 of the ICDR Rules.
22. ICANN further argued that Claimant's Request for Interim Relief ought to be denied because "DCA has not demonstrated a reasonable possibility that it will succeed on the merits of this IRP, which the law requires DCA to demonstrate."¹⁶
23. According to ICANN, "DCA's decision to wait five months before seeking a stay reflects the weakness of DCA's claims and the lack of any corresponding irreparable harm to DCA. This is compounded by the fact that DCA has done nothing to try to expedite these proceedings. To the contrary, DCA has failed to file its fees timely, it sought multiple extensions of time to file its papers, and it requested a very leisurely amount of time for the parties to select the IRP Panel. ICANN, and not the DCA, has been the party trying to expedite these proceedings, and DCA has resisted at every turn."¹⁷
24. DCA Trust's Request for Emergency Arbitrator and Interim Measures of Protection, initially scheduled for a hearing on 14 April 2014 before an emergency arbitrator pursuant to ICDR Rules 21 and 37, was instead referred to this Panel on 13 April 2014 for review and consideration pursuant to Article 37.6 of the ICDR Rules.
25. On 22 April 2014, this Panel held an organizational telephone conference call with the Parties. During that call, it was agreed, among other things, that the telephone hearing for DCA's Request for Interim Measures of Protection will be heard on 5 May 2014, and that ICANN would not take any further steps that would in any way prevent this Panel from granting the full relief requested by DCA Trust in its Request. These and a number of directions given by the Panel to the Parties were reflected in a Procedural Order No. 1 issued on 24 April 2014.
26. On 5 May 2014 this Panel heard the Parties' submissions on their respective written submissions and the Panel's questions sent to them in advance on 2 May 2014.

¹⁶ ICANN's Response to Claimant's Request for Emergency Arbitrator and Interim Measures of Protection, *para.* 3.

¹⁷ *Ibid.*, *para.* 30.

DECISION AND REASONS OF THE IRP PANEL

27. After having carefully read DCA Trust's written submissions and the responses filed by ICANN, and after listening to the Parties' respective oral presentations made by telephone on 5 May 2014, for reasons set forth below, the Panel is unanimously of the view that a stay ruling in the form described below is in order in this proceeding and that ICANN must 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 final decision regarding the same.
28. The Panel finds that interim relief in this proceeding is warranted based on two independent and equally sufficient grounds.
29. First, the Panel is of the view that this Independent Review Process 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 as follows:
- "There shall be an omnibus standing panel between six and nine members with a variety of expertise, including jurisprudence, judicial experience, alternative dispute resolution and 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 Independent Review Process 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.
31. 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. This is the same opportunity DCA would have enjoyed without a stay, but for ICANN's failure to create the standing panel.
32. Whether the Panel's decision is advisory only, as ICANN contends, or binding, as DCA Trust argues, the Panel is strongly of the view that ICANN's unique, international and important public functions require it to scrupulously honor the procedural protections its Bylaws, rules and regulations purport to offer the internet community. ICANN has been entrusted with the important

responsibility of bringing order to the global internet system. As set out in Article I, Sections 1 and 2 of ICANN's Bylaws:

"[t]he mission of ICANN is to coordinate, at the overall level, the global Internet's systems of unique identifiers, and in particular to ensure the stable and secure operation of the Internet's unique identifier systems. [...] In performing its mission, the following core values should guide the decisions and actions of ICANN:

6. Introducing and promoting competition in the registration of domain names where practicable and beneficial to public interest.

[...]

8. Making decisions by applying documented policies neutrally and objectively, with integrity and fairness."

33. In the Panel's unanimous view, it would be unfair and unjust to deny DCA Trust's request for interim relief when the need for such a relief by DCA Trust arises out of ICANN's failure to follow its own Bylaws and procedures.
34. Second, interim relief in this case is independently warranted for reasons unrelated to ICANN's role in creating the need for such relief as explained above.
35. DCA Trust argues that four criteria must be satisfied before interim relief is granted under international law and in international proceedings: urgency, necessity, protection of an existing right, and existence of a *prima facie* case on the merits, without the necessity of prejudging the matter.
36. ICANN agrees with the first three criteria identified by DCA Trust, but disagrees with the fourth. For ICANN, the Panel needs to find more than a *prima facie* case on the merits before ordering interim relief in this proceeding. In its Response to DCA Trust's Request for Emergency Arbitrator and Interim Measures of Protection, ICANN submits that the standard must be the one set out in article 17(A)(1)(b) of the UNCITRAL *Model Law on International Commercial Arbitration*. ICANN explains:

"In fact, it is generally accepted under both international and U.S. law that, in order to demonstrate entitlement to interim relief, the party seeking relief must also demonstrate a reasonable possibility of success on the merits. For example, Article 27 [*sic.*] (A)(1)(b) of the United Nations Commission on International Trade Law's ("UNCITRAL's") Model Law on International Commercial Arbitration states that a party requesting an interim measure must demonstrate

that “there is a reasonable possibility that the requesting party will succeed on the merits of the claim.” [...] Likewise, under U.S. law, a party seeking a preliminary injunction must at least demonstrate that “the likelihood of success is such that serious questions going to the merits were raised.”¹⁸

37. The Panel agrees with the Parties that the four criteria listed above in paragraph 35 form a part of the criteria most commonly used by international and national courts and arbitral tribunals¹⁹ to evaluate a party’s request for interim relief. The Panel, however, does not see a distinction between the demonstration of “a prima facie case” or “a reasonable possibility that the requesting party will succeed on the merits of the claim”. Like the International Law Association (“ILA”), the Panel is of the view that the demonstration of “a prima facie case” and “a reasonable possibility that the requesting party will succeed on the merits of the claim” are in reality one and the same standard.
38. Indeed, as the ILA recommended in its resolution of 1996²⁰, the granting of an interim relief should be available “on a showing of a case on the merits on a standard of proof which is less than that required for the merits under the applicable law”.

Urgency

39. Both DCA Trust and ICANN agree that urgency is one of the criteria that this Panel must consider before it decides to grant interim relief. DCA Trust in particular argues that the orders it requests are needed urgently, because:

“[w]ithout the order compelling ICANN to stay processing of ZACR’s application, DCA will suffer irreparable harm before the IRP process can be concluded... A request for interim measures of protection is considered urgent, if absent the requested measure, an action that is prejudicial to the rights of either party is likely to be taken before such final decision is given. This standard is sometimes termed “imminent harm”. In light of ICANN’s response to DCA’S request that it refrain from signing a Registry Agreement with ZACR – namely, signing the agreement 48 hours ahead of time in order to prevent any effective intervention by DCA – the additional harm DCA seeks to prevent clearly is imminent. Moreover, ZACR claims that it will have received

¹⁸ *Ibid.*, para. 21.

¹⁹ By “most commonly used”, the Panel means that this standard is used by international or regional courts and tribunals, but also by many domestic courts under their own laws.

²⁰ ILA Report of the Sixty-Seventh Conference, Helsinki, 1996, p. 202.

all rights to .AFRICA by April 2014, and will begin operating .AFRICA by May 2014.”²¹

40. The Panel is satisfied that the urgency test is met in the present case. Indeed, DCA Trust argues, without being contradicted by ICANN, that in March 2014 the latter officially signed the registry agreement for the .Africa gTLD with ZACR, DCA Trust’s competitor.
41. The urgency test is met as well when the Panel takes into consideration, ICANN’s noncommittal email to it and DCA Trust of 23 April 2014, in which ICANN writes:

“I am writing to follow up...with respect to the timing of the ultimate delegation by ICANN to ZA Central Registry of .AFRICA into the root zone...ICANN will not, as a practical matter, be able to conclude the delegation process prior to 15 May 2014. As a result, the schedule adopted by the Panel...would give ICANN the opportunity to consider the Panel’s recommendation in the event the Panel recommends a stay.” [Emphasis added]

42. The registry agreement being signed, the countdown for the launch of the .Africa gTLD could commence. ZACR announces on its website (<https://www.registry.net.za/launch.php>) that the launch should take place in June 2014. This Panel, even if it works very rapidly, will not be in a position to decide on the merits of DCA’s Request for an Independent Review before June 2014. Therefore, there is absolutely no doubt in the Panel’s mind that DCA Trust’s need for interim relief in this matter is urgent.

Necessity

43. Both DCA Trust and ICANN agree that a test of necessity must be met before granting the requested interim relief. Indeed, in its Response to Claimant’s Request for Emergency Arbitrator and Interim Measures of Protection, ICANN writes:

“As DCA acknowledges in its Request, in order to show necessity under international law, it must demonstrate proportionality, *i.e.* that the harm it would occur in the absence of interim relief measures would “exceed [] greatly the damage caused to the party affected” by these measures. DCA contends that it would suffer serious harm in the absence of interim relief because the “operation of .AFRICA is a unique right” and “DCA was created expressly for the purpose of campaigning for, competing for and ultimately operating .AFRICA.” But DCA fails to acknowledge that, whatever its unilateral plans might have been, its

²¹ Request for Emergency Arbitrator and Interim Measures of Protection, *para.* 30.

actual probability of harm is greatly diminished by its scant probability of success on the merits. DCA also fails to note the substantial potential harm that ZACR could suffer if the processing of its application for, and the ultimate delegation of, .AFRICA is delayed.”

“ICANN’S decision to proceed with the processing of ZACR’s application for .AFRICA despite DCA’s pending IRP is a reflection of ICANN’s belief that: (i) DCA’s IRP is frivolous and unlikely to succeed on the merits; and (ii) ZACR potentially could suffer substantial harm if the delegation of .AFRICA to it is further delayed.”²²

44. The Panel is of the opinion that the necessity test requires the Panel to consider the proportionality of the relief requested. The Panel thus must balance the harm caused to DCA Trust if a stay is not granted and the harm that would be caused to ICANN if interim relief were to be ordered. As explained by DCA Trust:

“If [DCA Trust] is deprived of the opportunity even to compete to operate .AFRICA, DCA will be unable to accomplish its charitable aims and will be unable to perform its mandate [...] By contrast, ICANN will suffer no similar harm...Regardless of the outcome of the IRP, ICANN will be able to delegate .AFRICA. [Similarly, ZACR may receive the rights to “AFRICA even if DCA is permitted to compete with it pursuant to ICANN’s rules and procedures for the new gTLD program.] The IRP is meant to be an expedited dispute resolution process. A slight delay in delegation is hardly an undue burden compared to the issues at stake.”²³

45. It is abundantly clear to the Panel from the facts as explained by both Parties in this case that if a stay is not granted and the registry agreement between ICANN and ZACR is implemented further, the chances of DCA Trust having its Request for an independent review heard and properly considered will be jeopardized.
46. The Panel considers that a stay in the implementation of the registry agreement between ICANN and ZACR is therefore proportionate and adequate to the particular circumstances of this case. Indeed, neither ICANN, nor ZACR will suffer from a few more months of delay if a stay of processing of ZACR’s .AFRICA application is ordered. Indeed, neither ICANN nor ZACR has pointed to any specific prejudice or harm that it will suffer if DCA Trust’s request for interim relief is granted. The same cannot be said about the

²² ICANN’s Response to Claimant’s Request for Emergency Arbitrator and Interim Measures of Protection, *paras.* 25 and 26.

²³ Request for Emergency Arbitrator and Interim Measures of Protection, *paras.* 27 and 29.

absence of such a relief for DCA Trust, which clearly would suffer irreparable harm if interim relief is not granted.

Protection of an existing right

47. DCA Trust has demonstrated, to the satisfaction of this Panel that, beyond the procedural rights it must enjoy to have its case heard, DCA Trust also enjoys, according to ICANN's own Bylaws, the right to have ICANN's Board decision reviewed by an independent panel, a right which will be lost if interim relief is not granted in this case. Indeed, Article IV, Section 3, paragraph 1 of ICANN's Bylaws unequivocally indicates that:

"In addition to the reconsideration process described in Section 2 of this Article, ICANN shall have in place a separate process for independent third-party review of Board actions alleged by an affected party to be inconsistent with the Articles of Incorporation or Bylaws." [Emphasis added]

Consequently, the Panel has determined that this criterion for the granting of interim relief in this case has also been met.

A reasonable possibility that the requesting party will succeed on the merits

48. This criterion was most heavily debated between the Parties. ICANN argues that DCA Trust does not have a case on the merits. In fact, ICANN goes as far as saying that Claimant's Request for an Independent Review Process is frivolous. Therefore, ICANN argues that DCA Trust has not demonstrated that there is a reasonable possibility it would succeed on the merits. In the Panel's view, by doing so, ICANN is asking for more than is required of DCA Trust at this stage of the independent review process.
49. Contrary to ICANN'S submissions, the Panel is of the view that it need not, at this stage, make a full appraisal of the merits of DCA Trust's case, given that the standard of proof for interim relief is lower than the standard of proof required for the evaluation of the merits of the case²⁴.
50. Having carefully examined the written submissions of the Parties, heard their oral submissions by telephone and deliberated on the various issues raised by them to date, the Panel is of the view that DCA Trust's case must proceed to the next stage.

²⁴ See the report accompanying the ILA resolution of 1996 mentioned in footnote 2. On page 195, the report says that the "standard of proof propounded (...) was one which found wide acceptance" among all the countries studied, except one.

DECISION OF THE IRP PANEL

51. The Panel therefore concludes that ICANN must 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.
52. The Panel reserves its views with respect to the other requests for relief made by DCA Trust in its Request for Emergency Arbitrator and Interim Measures of Protection. The Panel will consider the Parties' respective arguments in that regard if and when required by the Parties and if appropriate.
53. The Panel reserves its decision on the issue of costs relating to this stage of the proceeding until the hearing of the merits.

This Decision on Interim Measures of Protection has thirteen (13) pages. The members of the Panel have all reviewed this decision and agreed that the Chair may sign it alone on their behalf.

Signed in Montreal, Quebec for delivery to the Parties in Los Angeles, California.

Dated 12 May 2014.



Babak Barin, President of the Panel, on behalf of himself, Prof. Catherine Kessedjian and the Hon. Richard C. Neal (Ret.) as consented to by the Parties in their respective emails to the Panel of 7 May 2014

Case 2:16-cv-00862-RGK-JC Document 92-4 Filed 05/16/16 Page 1 of 2 Page ID #:4187

EXHIBIT 4

From: Sara Colon <sara@bnslawgroup.com>
Sent: March 08, 2016 3:52 PM
To: Contact Information Redacted
Cc: 'Ethan Brown'; kete@bnslawgroup.com
Subject: DCA v. ICANN
Attachments: DCA Filed Documents.zip

Dear Mr. Masilela,

I am counsel for DotAfricaConnect Trust ("DCA") in the matter of DCA v. ICANN et al., pending in the Central District of California. We write to inform you that DCA has filed the attached amended complaint, including ZACR as a defendant, as well as the attached motion for preliminary injunction and temporary restraining order papers.

Please let us know whether you have counsel that will accept service of these documents on your behalf. If you do not, please let us know whether you will accept service of these documents, and future filings, via email.

Please be informed that the rights to .Africa are disputed in this lawsuit. Should you proceed to accept any delegation of rights in .Africa from ICANN during the pendency of this litigation, DCA reserves its right to take all necessary steps to protect its rights.

Best,
Sara Colon

Case 2:16-cv-00862-RGK-JC Document 92-5 Filed 05/16/16 Page 1 of 3 Page ID #:4189

EXHIBIT 5

From: David Kesselman <dkesselman@kbslaw.com>
Sent: April 01, 2016 11:55 AM
To: Sara Colón
Cc: Ethan Brown
Subject: Re: DCA v. ICANN/ ZACR

Thank you, Sara. I'll circulate a draft stipulation for your review.

Best,
David

Sent from my iPhone

On Apr 1, 2016, at 11:51 AM, Sara Colón <sara@bnsklaw.com> wrote:

David,

You can have the extension to April 26, 2016.

Best,
Sara

From: David Kesselman [<mailto:dkesselman@kbslaw.com>]
Sent: Friday, April 1, 2016 10:40 AM
To: 'Ethan Brown' <ethan@bnslawgroup.com>; Sara Colon <sara@bnslawgroup.com>
Subject: DCA v. ICANN/ ZACR

Ethan and Sara,

I hope you are both well.

My firm has been retained to represent ZA Central Registry in the lawsuit filed by your client, DotconnectAfrica Trust.

By my calculation, our response to the First Amended Complaint is due on April 12, 2016. Would you be amendable to a 2 week extension so that the response would be due on April 26, 2016? If so, we can put together a stipulation. My client necessarily reserves all rights including challenging personal jurisdiction.

I'm happy to discuss, too. Thanks.

Best,
David

David W. Kesselman, Esq.
Kesselman Brantly Stockinger LLP
1230 Rosecrans Ave, Suite 690
Manhattan Beach, CA 90266

Contact Information Redacted

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 8

9 Attorneys for Defendant
 INTERNET CORPORATION FOR
 ASSIGNED NAMES AND NUMBERS
 10

11 UNITED STATES DISTRICT COURT
 12 CENTRAL DISTRICT OF CALIFORNIA
 13 WESTERN DIVISION
 14

15 DOTCONNECTAFRICA TRUST,
 16 Plaintiff,
 17 v.

18 INTERNET CORPORATION FOR
 ASSIGNED NAMES AND
 19 NUMBERS, et al.,
 20 Defendants.
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Case No. CV 16-00862-RGK

Assigned for all purposes to the
 Honorable R. Gary Klausner

**DEFENDANT INTERNET
 CORPORATION FOR
 ASSIGNED NAMES AND
 NUMBERS' JOINDER IN
 DEFENDANT ZACR'S MOTION
 TO RECONSIDER AND
 VACATE PRELIMINARY
 INJUNCTION RULING**

Date: June 6, 2016

Time: 9:00 a.m.

Location: Courtroom 850

1 Defendant Internet Corporation for Assigned Names and Numbers
 2 (“ICANN”) joins in defendant ZA Central Registry’s (“ZACR’s”) Motion to
 3 Reconsider and Vacate Preliminary Injunction Ruling (“Motion”), filed on May 6,
 4 2016 (ECF No. 85).

5 ICANN joins ZACR’s Motion on the same grounds as those set forth in
 6 ZACR’s Memorandum of Points and Authorities in support of the Motion,
 7 including but not limited to those explaining why plaintiff DotConnectAfrica Trust
 8 (“Plaintiff”) will not suffer irreparable harm in the absence of a preliminary
 9 injunction due to ICANN’s ability to “redelegate” the .AFRICA TLD in the event
 10 Plaintiff prevails in this action. (See Mot. at 13-14.) ICANN, however, takes no
 11 position on the amount of any claimed damages in this action.

12 For all the reasons set forth in the Motion, in addition to all pleadings, papers
 13 and other documents on file with this Court, ICANN respectfully requests that the
 14 Court grant ZACR’s Motion and vacate the preliminary injunction that was entered
 15 on April 12, 2016 (ECF No. 75).

16 Dated: May 10, 2016 JONES DAY
 17 By: /s/ Jeffrey A. LeVee
 18 Jeffrey A. LeVee
 19 Attorneys for Defendant
 20 INTERNET CORPORATION FOR
 21 ASSIGNED NAMES AND NUMBERS

22 NAI-1501020894

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1 David W. Kesselman (SBN 203838)
 2 *dkesselman@kbslaw.com*
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 8 Telephone: (310) 307-4555
 9 Facsimile: (310) 307-4570
 10 *Attorneys for Defendant*
 11 **ZA Central Registry, NPC**

12 **UNITED STATES DISTRICT COURT**
 13 **CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION**

14 DOTCONNECTAFRICA TRUST, a
 15 Mauritius Charitable Trust,
 16 Plaintiff,

17 v.

18 INTERNET CORPORATION FOR
 19 ASSIGNED NAMES AND
 20 NUMBERS; a California corporation;
 21 ZA Central Registry, a South African
 22 non-profit company; DOES 1 through
 23 50, inclusive,
 24 Defendants.

CASE NO. 2:16-cv-00862 RGK (JCx)
*Assigned for all purposes to the
 Honorable R. Gary Klausner*

**MEMORANDUM OF POINTS AND
 AUTHORITIES IN SUPPORT OF
 ZACR’S MOTION TO
 RECONSIDER AND VACATE
 PRELIMINARY INJUNCTION
 RULING**

[Notice of Motion and Motion to
 Reconsider and Vacate Preliminary
 Injunction Ruling; Declaration of
 David W. Kesselman; Declaration of
 Mokgabudi Lucky Masilela; and
 [Proposed] Order Filed Concurrently
 Herewith]

Date: June 6, 2016
 Time: 9:00 a.m.
 Location: Courtroom 850

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I.

INTRODUCTION

On April 12, 2016, the Court granted a preliminary injunction sought by plaintiff DotConnectAfrica Trust (“DCA”). Specifically, the Court ruled that defendant Internet Corporation for Assigned Names and Numbers (“ICANN”) is precluded from delegating the top level domain (“gTLD”) .Africa to defendant ZA Central Registry, NPC (“ZACR”). ZACR, which had not yet entered the case when DCA and ICANN were briefing these issues, respectfully requests that the Court reconsider its ruling and vacate the preliminary injunction.

First, the preliminary injunction ruling is predicated upon a key factual error that mandates reconsideration. The preliminary injunction ruling states that “[b]ecause ICANN found DCA’s application passed the geographic names evaluation in the July 2013 initial evaluation report, the Court finds serious questions in DCA’s favor as to whether DCA’s application should have proceeded to the delegation stage following the IRP decision.” (Order at 6.) This statement is in error. DCA never passed the geographic names evaluation. DCA itself acknowledges in the materials cited by the Court that ZACR – not DCA – passed the geographic names evaluation. This factual error is critically important. Based upon the record, it is clear that ICANN fully abided the Independent Review Process (“IRP”) panel’s recommendation. DCA’s application was placed right back where it was supposed to be – in the geographic names evaluation process. Because DCA could not (and still cannot) meet the fundamental requirement that it demonstrate 60% support from countries within Africa, ICANN necessarily rejected DCA’s application for the gTLD .Africa. Accordingly, based upon the

1 actual state of the record, DCA has no likelihood of success and the preliminary
2 injunction should be vacated.¹

3 Second, reconsideration is also warranted because the Court, relying upon
4 inaccurate assertions in DCA’s moving papers, ruled that DCA would suffer
5 “irreparable harm” if ICANN were to delegate the gTLD .Africa to ZACR before
6 this case can be decided on the merits. (Order at 7.) DCA claims that the gTLD
7 “.Africa can be delegated only once.” This is wrong. There is no technological
8 barrier that would prevent the transfer of the gTLD from ZACR to DCA in the
9 future. Indeed, in 2013, ICANN prepared a manual specifically addressing the
10 redelegation of a gTLD – and all industry participants are well aware that this
11 process can be implemented. While ZACR contends that DCA will never actually
12 receive such relief because its lawsuit is entirely without merit, the transfer of the
13 gTLD .Africa can be achieved. Therefore, DCA cannot demonstrate that it will
14 suffer irreparable harm if ICANN proceeds with the delegation of .Africa to
15 ZACR. On that basis alone the Court’s preliminary injunction ruling should be
16 vacated.

17 Third, reconsideration is proper because the Court’s analysis of the balance
18 of equities did not take into account the significant harm to ZACR. In light of the
19 evidence now presented by ZACR, the balance of equities clearly weighs against
20

21 ¹ The Court also made a factual error in stating that DCA submitted its
22 application in March 2012 but ZACR only entered the process in February 2014.
23 (Order at 2.) In fact, ZACR and DCA both submitted their respective applications
24 to ICANN in 2012. (The Court’s reference to February 2014 appears to derive
25 from Exhibit 20 attached to the Declaration of Sophia Bekele Eshete (“Eshete
26 Decl.”). However, that was in reference to the “download” date and not ZACR’s
27 original submission date.) This is important to the extent that this error may have
28 improperly contributed to the Court’s view that ICANN favored ZACR over
DCA. In fact, both DCA and ZACR had their respective applications reviewed by
ICANN on the exact same timeline and by the same process.

1 maintaining the preliminary injunction. The delay in the delegation of the gTLD
2 .Africa – which could last years unless the Court’s ruling is vacated – is causing
3 significant economic harm to ZACR. ZACR has now spent years and invested
4 heavily – especially after it signed the Registry Agreement with ICANN in 2014 –
5 to begin operations for the .Africa gTLD. ZACR estimates that the recent
6 historical average of the hard costs associated with delaying delegation is running
7 at approximately \$20,000 per month, and the total estimated lost opportunity costs
8 through May 1, 2016, exceed \$15 million (a significant portion of those revenues
9 would have supported a charity for the public interest in Africa). In addition, the
10 preliminary injunction necessarily deprives the African people of a very important
11 opportunity for expanded internet domain name capabilities. Thus, the balance of
12 hardships, including the impact on the African people, should be reconsidered in
13 light of the corrected factual record, and the evidence proffered by ZACR.

14 Finally, reconsideration is warranted because, at a minimum, DCA should
15 be required to post a significant bond. Consideration of a bond is mandatory
16 under Fed.R.Civ.P. 65(c), and it is especially important here given the negative
17 impact of the injunction on ZACR and the African people. DCA does not appear
18 to have significant assets and it is a foreign company – making a bond all the more
19 important to secure some form of security in this case.

20 II.

21 **RELEVANT PROCEDURAL HISTORY**

22 DCA filed its initial Complaint in the Los Angeles Superior Court on
23 January 20, 2016. In that initial Complaint, DCA only named ICANN as a
24 defendant. ICANN removed the initial Complaint to this Court on February 8,
25 2016. On February 26, 2016, DCA filed a First Amended Complaint and named
26 both ICANN and ZACR as defendants. On March 1, 2016, DCA filed a motion
27 for preliminary injunction. On March 9, 2016, DCA filed a motion requesting
28

1 permission to serve ZACR via a special mail service in South Africa. This Court
2 granted that request on March 10, 2016. On March 14, 2016, ICANN filed its
3 opposition to DCA’s motion for preliminary injunction. On March 21, 2016,
4 DCA filed its reply in support of the motion for preliminary injunction. On March
5 22, 2016, ZACR was served in South Africa. On April 12, 2016, this Court issued
6 its ruling on DCA’s motion for preliminary injunction.

7 **III.**

8 **RELEVANT FACTS²**

9 **A. ZACR Is the Largest Domain Name Registry on the African**
10 **Continent**

11 ZACR is a South African non-profit company with its principal place of
12 business in Midrand, South Africa. Declaration of Mokgabudi Lucky Masilela
13 (“Masilela Decl.”) ¶ 2. ZACR was originally formed in 1988 under the name
14 UniForum S.A. *Id.* ¶ 3. The purpose of the company was to promote open
15 standards and systems in computer hardware and software. *Id.* In 1995, the
16 company was assigned the administration rights for the South African domain
17 name, “co.za”. *Id.* Today ZACR has registered over 1 million co.za domain
18 name registrations – or about 95% of the total registrations for “.za”. *Id.* Due to
19 its well-known reputation for independence and neutrality, as well as technical
20 competence and operational excellence, ZACR is the single largest domain name
21 registry on the African continent. *Id.*

22
23
24 ² In proffering relevant facts in support of this motion, ZACR has sought as
25 much as possible to avoid repeating the facts set forth in ICANN’s opposition to
26 DCA’s motion for preliminary injunction. Rather, ZACR has attempted to
27 include additional facts about ZACR and/or highlight aspects of the application
28 process that were not previously addressed or, in some instances, appeared in error
in the Court’s preliminary injunction ruling.

1 **B. ZACR's 2012 Application for the .Africa gTLD**

2 After ICANN formally launched the “New gTLD Program,” ZACR filed an
3 application for the .Africa gTLD. *Id.* ¶ 4. Indeed, both ZACR and DCA
4 submitted their respective applications for the .Africa gTLD in Spring/ Summer
5 2012.³ *Id.* The ICANN selection criteria – which ICANN set forth in an
6 Applicant Guidebook (“Guidebook”) – made clear that because the .Africa gTLD
7 represented the name of a geographic region, an applicant would need to provide
8 documentation showing support from at least 60% of the governments in the
9 region. *Id.* ¶ 5; *See* Declaration of Sophia Bekele Eshete (“Eshete Decl.”) Ex. 3
10 (Guidebook) at 2-18, ¶ 2.2.1.4.2.4. Further, the criteria made clear that no more
11 than one objection from a government or public entity associated with the
12 geographic area would be permitted. Masilela Decl. ¶ 5; Eshete Decl. Ex. 3.

13 ZACR submitted its application to ICANN with the full support of the
14 African Union member states via the AUC endorsement. Specifically, the AUC,
15 which serves as the Secretariat of the African Union, provided a letter supporting
16 ZACR's application. Masilela Decl. ¶ 6, Ex. A. The African Union represents all
17 but one of the countries in Africa; the only nonmember, Morocco, separately
18 provided a letter supporting ZACR's application. *Id.* ¶ 6, Ex. B; *see also*
19 Declaration of Moctar Yedaly In Support of ICANN's Opposition to Plaintiff's
20 Motion for Preliminary Injunction (“Yedaly Decl.”) ¶ 3.

21 Importantly, ZACR received the support of the African Union only after the
22 AUC publicized a request for proposal (“RFP”) in 2011.⁴ Masilela Decl. ¶ 7,

23 _____
24 ³ ZACR submitted its application for .Africa on June 13, 2012. At that same
25 time, ZACR also applied for the .CapeTown, .Joburg and .Durban gTLDs. ZACR
26 was ultimately awarded the rights to these gTLDs and the gTLDs have launched
to the Internet public. Masilela Decl. ¶ 4.

27 ⁴ It had been well known that ICANN was considering a new gTLD program,
including .Africa. It was in anticipation of this new gTLD program that the AUC
28

1 Ex. C; Eshete Decl., Ex. 21. This was an open bid process and the AUC made
2 clear that it was only going to support one applicant. Masilela Decl. ¶ 7. ZACR
3 is informed that DCA chose not to participate in the RFP. *Id.* ¶ 8. Ultimately,
4 ZACR prevailed in the RFP process and received the support of the AUC in its
5 application for the .Africa gTLD. *Id.*

6 **C. Contrary to the Court’s Finding, The Facts Are Undisputed**
7 **That DCA Never Passed the Geographic Names Panel**

8 As fully set forth in ICANN’s papers, DCA’s application was before the
9 Geographic Names Panel when ICANN halted the processing of DCA’s
10 application. *See* Declaration of Christine Willett In Support of Defendant
11 ICANN’s Opposition to Plaintiff’s Motion For Preliminary Injunction (“Willett
12 Decl.”) ¶ 9. ICANN did so because ICANN’s Government Advisory Committee
13 (“GAC”) issued “consensus advice” that DCA’s application should not be
14 approved. *Id.* Thereafter, DCA challenged ICANN’s decision to halt the
15 processing of its application, and ultimately DCA filed a request for review by an
16 Independent Review Process (“IRP”) panel. The IRP panel recommended that the
17 ICANN “refrain from delegating the .Africa gTLD and permit DCA’s application
18 to proceed through the remainder of the new gTLD application process.”⁵ *See*
19 Eshete Decl., Ex. 1 (IRP Panel Declaration at 63 (¶ 133)).

20
21
22 decided to hold an RFP to support a qualified applicant as a result of a mandate
23 from African ICT Ministers to set up structures and modalities for the
implementation of .Africa. Masilela Decl. ¶ 7.

24 ⁵ It should be noted that notwithstanding DCA’s request that the IRP panel
25 make findings of wrongdoing between ICANN and ZACR, the IRP panel
26 expressly declined to make any such findings. *See* Eshete Decl., Ex. 1 at 60 (IRP
27 Panel Declaration ¶ 117). This is not surprising as ZACR, which was not allowed
28 to participate in the IRP panel proceedings due to DCA’s formal objection, has
always comported itself properly in its application for the .Africa gTLD.

1 After ICANN adopted the IRP panel’s recommendations, ICANN placed
2 DCA’s application back with the Geographic Names Panel for review and
3 processing.⁶ Willett Decl. ¶ 10. Contrary to this Court’s ruling (Order at 6), the
4 record is clear that DCA had not previously passed the Geographic Names Panel.
5 *Id.* ¶ 9. Accordingly, ICANN properly placed DCA back in the same position it
6 had been before ICANN halted the processing of its application. *Id.* ¶ 10.

7 However, when DCA again failed to submit the required documentation
8 demonstrating that it had 60% support, and further failed to respond to follow-up
9 questions addressing these issues, ICANN once again stopped processing DCA’s
10 application. *Id.* ¶¶ 9-13.⁷ ICANN stated that the Geographic Names Panel had
11 determined that DCA failed to provide the demonstrated support for a gTLD – as
12 mandated by the criteria for a geographic domain name.⁸ *See* Willett Decl. ¶¶ 10-
13 13 and referenced exhibits.

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16
17 ⁶ As mandated by ICANN’s Guidebook, the Geographic Names Panel is
18 operated by a third party vendor retained by ICANN. It verifies the relevance and
19 authenticity of an applicant’s documentation to meet the requirement that it have
20 the support of at least 60% of the governments, and no more than one objection by
21 a government, in a geographic region. *See* Eshete Decl., Ex. 3 at 2-18 (ICANN
22 Guidebook 2.2.1.4.2.4).

23 ⁷ *See also* Eshete Decl. Exs. 16 and 17. DCA was specifically advised by
24 ICANN that the “required documentation of support or non-objection was either
25 not provided or did not meet the criteria described in Section 2.2.1.4.3 of the
26 Applicant Guidebook.” Eshete Decl. Ex. 16.

27 ⁸ In addition to the failure to demonstrate 60% support of the countries in the
28 region, ICANN had received 17 “Early Warning Notices” from individual African
countries to DCA’s application. These “Early Warning Notices” are available
online at: <http://africainonespace.org/content.php?tag=13&title=Resources>. They
are also attached for the Court’s convenience as an exhibit to the Masilela
Declaration. Masilela Decl. ¶ 9, Ex. D.

1 **D. Redelegating A gTLD Is An Available Procedure And DCA's**
2 **Assertion to the Contrary is Factually Incorrect**

3 In an effort to assert supposed “irreparable harm” if an injunction were not
4 granted, DCA suggested in its motion papers, and this Court adopted in its ruling,
5 that “.Africa can be delegated only once.” (Order at 7.) However, the assertion
6 proffered by DCA is simply wrong. The industry participants are well aware that
7 redelegation is technologically feasible. Indeed, in 2013, ICANN published a
8 manual with step-by-step instructions outlining the process for redelegating a
9 gTLD like .Africa. That manual, titled “User Documentation on Delegating and
10 Redelegating a Generic Top Level Domain (gTLD),” provides the requirements
11 for redelegation. Masilela Decl. ¶ 13; Ex. E. This manual is needed precisely
12 because ICANN does not delegate gTLD’s in perpetuity. Rather, ICANN builds
13 in time limits in its registry agreements. *Id.* Thus, it is understood by industry
14 participants that a redelegation of a gTLD is possible and entirely feasible. *Id.*

15 **E. Delaying Delegation of .Africa Will Continue to Cause**
16 **Significant Harm to ZACR and the People of Africa**

17 The Registry Agreement between ICANN and ZACR was effective on
18 March 24, 2014 and runs for ten years. Masilela Decl. ¶ 10. Yet, over two years
19 into the Agreement, the .Africa gTLD has still not been delegated to ZACR. In
20 effect, 20% of the period of the Agreement has already lapsed without any benefit
21 to ZACR. This delay has resulted in unforeseen and mounting costs, as well as
22 lost opportunities for the .Africa project. *Id.* ZACR has incurred considerable
23 expenses both prior to and after entering into the Registry Agreement. *Id.* ¶ 11.
24 The current and continuing monthly cost due to the delay in the delegation is
25 running at approximately \$20,000 per month.⁹ *Id.* Estimated loss of net income

26 _____
27 ⁹ In providing this estimate, ZACR reviewed the monthly costs incurred
28 during the last 10 months for the .Africa project, including the ongoing costs

1 after tax (opportunity costs) suffered by ZACR from the date of planned
2 delegation following the Registry Agreement up to May 1, 2016 are estimated to
3 be \$15 million – of which approximately \$5.5 million would have been donated to
4 the dotAfrica Foundation for African online development. *Id.* ¶ 12. Until such
5 time as delegation takes place, the .Africa gTLD in effect stagnates and generates
6 no income and no value in the marketplace. The ongoing delay is also prejudicial
7 to the gTLD itself (no matter who the operator is) in that the initial interest
8 surrounding the launch of this domain name will have faded, and persons who
9 may have sought to register will have lost interest. *Id.*

10 The African people are also harmed by the delay in the delegation. *Id.* ¶ 14.
11 The .Africa domain name would add brand value to the continent and would
12 provide a platform that connects products, businesses and individuals that have
13 interests in Africa. *Id.* The African people are further harmed because the
14 agreement between ZACR and the AUC required that a foundation be created
15 upon delegation and that a significant portion of the revenues received from
16 second level domain delegations (for example: xyz.africa) be directed to the
17 “dotAfrica Foundation.” *Id.* The Foundation would use the revenues to fund
18 various African domain name and Internet related developmental projects which
19 are now delayed as a result of the preliminary injunction. *Id.*

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23 related to consultants, marketing, sponsorships and related expenses. The
24 importance of maintaining visibility for the .Africa project, coupled with the
25 ongoing need to interface with Government officials throughout the African
26 continent, makes clear that these ongoing expenses will continue during the course
27 of this litigation. In determining these figures, ZACR necessarily averaged the
28 monthly expenses for the .Africa project and converted relevant expenditures from
South African Rand to U.S. dollars. Masilela Decl. ¶ 11.

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IV.

LEGAL STANDARD

A. Standard for Preliminary Injunction

A preliminary injunction is an “extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief.” *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008). A plaintiff seeking a preliminary injunction must establish: (1) likelihood of success on the merits; (2) likelihood of suffering irreparable harm in the absence of the preliminary relief; (3) the balance of equities between the parties tips in favor of the plaintiff; and (4) the injunction is in the public interest. *Id.* at 20.

The Ninth Circuit also utilizes a “sliding scale” test to address the propriety of a preliminary injunction. *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1134-35 (9th Cir. 2011) . Under that formulation, a “preliminary injunction is appropriate when a plaintiff demonstrates . . . that serious questions going to the merits were raised and the balance of hardships tips sharply in the plaintiff’s favor.” *Id.* (citation omitted). However, the Ninth Circuit has made clear that all four prongs of the *Winter* test must be met. *Id.* at 1135. Moreover, a plaintiff “must establish that irreparable harm is *likely*, not just possible, in order to obtain a preliminary injunction.” *Id.* at 1131 (citing *Winter*). See also Moore’s Federal Practice 13-65, § 65.22 (explaining that Supreme Court in *Winter* overturned Ninth Circuit’s earlier rule allowing preliminary injunction based solely on possibility of irreparable harm to plaintiff).

B. Standard for Challenging A Preliminary Injunction Ruling

Any person or entity affected by a preliminary injunction can seek an order modifying or vacating it, including a party to whom the injunction was not initially directed. *United States v. Board of School Commrs. Of City of*

1 *Indianapolis*, 128 F.3d 507, 511 (7th Cir. 1997); *see also* William W. Schwarzer,
2 *et al.*, Federal Civil Procedure Before Trial ¶ 13:213, at 13-115.

3 The Ninth Circuit has held that Fed.R.Civ.P. 59(e) governs a motion to
4 reconsider a preliminary injunction. *Credit Suisse First Boston Corp. v.*
5 *Grunwald*, 400 F.3d 1119, 1123-24 (9th Cir. 2005). Thus, a motion for
6 reconsideration of a preliminary injunction must be filed within the 28 days
7 mandated by Rule 59(e). However, a motion to vacate or dissolve a preliminary
8 injunction ruling is governed by Fed.R.Civ.P. 54(b). *Credit Suisse*, 400 F.3d at
9 1124. There is no time limit with respect to the filing of a motion to vacate or
10 dissolve a preliminary injunction. *Id.*

11 “In determining whether a motion requesting the district court to reconsider
12 its preliminary injunction should be treated as a motion for reconsideration under
13 Rule 59 or a motion for dissolution or modification under Rule 54 . . . [the court]
14 ‘must look beyond the motion’s caption to its substance.’” *Id.* (citation omitted).
15 In general, a motion that seeks to relitigate the original issue is governed by Rule
16 59, whereas Rule 54 applies to a motion that “is based upon new circumstances
17 that have arisen after the district court granted the injunction . . .” *Id.* ZACR’s
18 motion is timely under either standard.

19 Further, Central District Local Rule 7-18 provides that a motion for
20 reconsideration is proper if: “(a) a material difference in fact or law from that
21 presented to the Court before such decision that in the exercise of reasonable
22 diligence could not have been known to the party moving for reconsideration at
23 the time of such decision, or (b) the emergence of new material facts or change of
24 law occurring after the time of such decision, or (c) a manifest showing of a
25 failure to consider materials facts presented to the Court before such decision. No
26 motion for reconsideration shall in any manner repeat any oral or written
27 argument made in support of or in opposition to the original motion.”

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V.

ARGUMENT

A. The Court Should Vacate the Injunction Because the Corrected Record Demonstrates That DCA Has No Likelihood of Success on the Merits

In granting DCA’s motion for preliminary injunction, and specifically evaluating DCA’s likelihood of success on the merits, the Court made a critical factual error. The Court misread DCA’s moving papers to suggest that DCA was contending that it had passed the geographic names evaluation process. Order at 6 (“DCA contends that ICANN violated the IRP Decision by restarting the geographic name evaluation, which it had already passed, rather than permitting the application to resume at the delegation phase.”) Based upon this misreading of the evidence, the Court went on to rule that “[b]ecause ICANN found DCA’s application passed the geographic names evaluation in the July 2013 initial evaluation report, the Court finds serious questions in DCA’s favor as to whether DCA’s application should have proceeded to the delegation stage following the IRP decision.” *Id.*

However, the evidence cited by the Court, specifically Exhibit 27 of the Eschete Declaration, actually shows that ZACR – and *not* DCA – passed the geographic name evaluation process. This factual error underpinning the Court’s ruling, while clearly inadvertent, is critical. The record is, in fact, undisputed that DCA never passed the Geographic Names Panel.¹⁰ Willett Decl. ¶¶ 9-10. As before, DCA could not (and still cannot) meet the mandatory criteria for passing the geographic names process. *Id.* ¶¶ 10-13. DCA cannot demonstrate that it has

¹⁰ ICANN, per the IRP recommendation, properly placed DCA’s application back to the precise point it had been before ICANN stopped processing the application – before the Geographic Names Panel. Willett Decl. ¶ 10.

1 the required minimum 60% support from countries within the Africa Union – an
2 express criteria for the delegation of any geographic gTLD. *See* Eshete Decl. Ex.
3 3 (Guidebook at 2-18 (§ 2.2.1.4.2.4)). Additionally, 17 countries issued Early
4 Warnings in response to DCA’s application – thereby further supporting DCA’s
5 rejection by the Geographic Names Panel. Masilela Decl. ¶ 9, Ex. D.

6 Because DCA does not have the support of the majority of African
7 countries, and cannot meet the express requirement of the geographic names
8 evaluation process, it has no likelihood of success in this litigation. Accordingly,
9 the Court’s preliminary injunction ruling – which was based upon the incorrect
10 factual assumption that DCA had already passed the geographic name process –
11 should be vacated.

12 **B. The Court Should Vacate the Injunction Because There Is No**
13 **Irreparable Harm To DCA**

14 The Court’s preliminary injunction should also be vacated because this
15 Court’s finding of “irreparable harm” was based upon a faulty premise. The
16 Court, relying upon an erroneous submission by DCA, determined that “.Africa
17 can be delegated only once, and only by ICANN.” Order at 7. While it is
18 certainly true that only ICANN has the power to delegate a gTLD, it is incorrect
19 that a gTLD, including .Africa, can never be redelegated.¹¹ In fact, ICANN has
20 prepared for this precise eventuality and issued a manual in 2013 providing step-
21 by-step instructions for how to redelegate a gTLD. Masilela Decl. ¶ 15; Ex. A.
22 The manual, titled “User Documentation on Delegating and Redelegating a

23 _____
24 ¹¹ DCA improperly suggested in its moving papers that “[t]he rights to .Africa
25 cannot be issued again.” (DCA opening brief at 13). There is no basis for this
26 assertion. In the cited Eshete Declaration, she did not actually state that .Africa
27 cannot be issued again. Rather, she carefully stated that “it would be difficult if
28 not impossible to unwind that control and provide it to another party.” Eshete
Decl. ¶ 3. That is simply not true. *See* Masilela Decl. ¶ 15; Ex. E.

1 Generic Top Level Domain (gTLD),” makes abundantly clear that the process is
2 available if required. This is because, as outlined above, ICANN delegates a
3 gTLD for a period of years. It necessarily follows that a gTLD can be redelegated
4 to another entity if necessary.

5 While ZACR asserts that DCA cannot prevail in this litigation – and has no
6 entitlement to the .Africa gTLD – DCA’s suggestion that an injunction is required
7 because .Africa cannot be redelegated is simply false – and not supported by the
8 now supplemented record before this Court.¹² The injunction must be dissolved
9 on this basis alone. *Cottrell*, 632 F.3d at 1131 (plaintiff must demonstrate
10 likelihood of irreparable harm for preliminary injunction to issue) (citing *Winter*,
11 555 U.S. at 22).

12 **C. Given the Harm to ZACR and the People of Africa, the Balance**
13 **of Equities Favors Vacating the Injunction**

14 The preliminary injunction should also be vacated because the balance of
15 equities demonstrates that the harm to ZACR and the people of Africa outweigh
16 any alleged harm to DCA. *See Los Angeles Memorial Coliseum v. Nat’l Football*
17 *League*, 634 F.2d 1197, 1203 (9th Cir. 1980) (mandating that in evaluating
18 preliminary injunction court must evaluate harm to defendant); *see also Federal*
19 *Civil Procedure Before Trial* 13:72, at 13-46 (“Before a preliminary injunction
20

21 _____
22 ¹² ZACR had not yet been formally served in South Africa at the time the
23 parties were briefing the preliminary injunction. Indeed, ZACR advised DCA in a
24 meet and confer that it initially intended to challenge personal jurisdiction. ZACR
25 has no personnel, no offices, no bank accounts, and maintains no business
26 operations in California. Masilela Decl. ¶ 16. However, in the course of
27 preparing the motion to dismiss papers, the Court issued the preliminary
28 injunction order. ZACR has now determined to forego its personal jurisdiction
challenge to participate in these proceedings, defend itself against DCA’s baseless
allegations on the merits, and clarify the record.

1 may issue, the court must identify the harm that a preliminary injunction might
2 cause the defendant and weigh it against plaintiff's threatened injury.”).

3 Indeed, the ongoing harm to ZACR from the preliminary injunction
4 and the delay in the delegation of the .Africa gTLD is substantial. Whereas DCA
5 could eventually receive the redelegation of .Africa, ZACR is now incurring great
6 financial costs with no attendant benefits.¹³ The costs following the execution of
7 the Registry Agreement continue to mount – ZACR is now running continuing
8 expenditures of approximately \$20,000 per month on this project. This amount
9 excludes future litigation costs. And the lost opportunity costs suffered by ZACR
10 are even more alarming: as of May 1, 2016, ZACR conservatively estimates these
11 losses to be \$15,000,000.¹⁴ The monthly expenditures and lost opportunity costs
12 will only continue during the pendency of the injunction. Masilela Decl. ¶¶ 11-
13 12.

14 Accordingly, given that the harm to ZACR is so substantial and outweighs
15 any alleged harm to DCA, the balance of equities further supports vacating the
16 preliminary injunction. *See MacDonald v. Chicago Park Dist.*, 132 F.3d 355,
17 361, 363 (7th Cir. 1997) (vacating preliminary injunction because harm to
18 defendant outweighed impact on plaintiff); *see also Moore's Federal Practice* §
19 65.22 n. 40, at 13-65 (“Preliminary injunctive relief must be denied if non-
20 movant's harm is greater than movant's harm.”) (citing cases).

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23 ¹³ Once a gTLD is delegated it starts increasing in value. The gTLD is at its
24 lowest value prior to delegation and increases as the number of second level
25 domain delegations (xyz.Africa) increases. If DCA is redelegated the .Africa
26 gTLD, it will suffer no irreparable harm as it will inherit a more valuable gTLD
27 without incurring the cost to develop it. Masilela Decl. ¶ 13.

28 ¹⁴ Of the \$15 million in loss of net income after tax, ZACR estimates that
approximately \$5.5 million would have been donated to charity, and specifically
the dotAfrica Foundation for African online development. Masilela Decl. ¶ 12.

1 **D. The Public Interest Also Favors Vacating the Preliminary**
2 **Injunction**

3 The public interest also favors vacating the injunction. The delay in the
4 delegation of the .Africa gTLD continues to deprive the African people of a
5 domain name that would add brand value to the continent and would provide a
6 platform that connects products, businesses and individuals that have interests in
7 Africa. Masilela Decl. ¶ 14. As more fully set forth in ZACR's application to
8 ICANN, the implementation of .Africa will add value to the Internet namespace as
9 a recognizable phrase which focuses on the African identity and captures the
10 essence of the African community. Eshete Decl. Ex. 20. It is expected that
11 African institutions, including small and medium size enterprises, will greatly
12 benefit from .Africa, and use the domain as a platform to promote the economic
13 growth of Africa. *Id.* Thus, the ongoing delay in delegating the gTLD .Africa is
14 causing real and negative consequences to the African people – which are now
15 exacerbated by the preliminary injunction ruling. Indeed, the AUC, on behalf of
16 its member countries, has expressed its concerns to ICANN about the ongoing
17 delay in the delegation process and the harm to the African people. Yedaly Decl.,
18 Ex. D.

19 Accordingly, the public harm to the African people provides an additional
20 basis for vacating the Court's order.¹⁵ *See generally Winter*, 555 U.S. at 22-26, 33
21 (district court's preliminary injunction did not properly take into account public
22 interest associated with national security); *see also Tilton v. Capital Cities/ABC*,

25 ¹⁵ Allowing ZACR to begin operations for .Africa would also result in the
26 flow of significant revenues for the public interest directed to the dotAfrica
27 Foundation. Masilela Decl. ¶ 12; Yedaly Decl. ¶ 13.

1 827 F. Supp. 672, 674 (N.D. Okla. 1993) (public interest favored denying
2 preliminary injunction that sought to limit free speech rights).

3 **E. At a Minimum, DCA Should Be Forced to Post a Bond As**
4 **Mandated by Fed.R.Civ.P. 65(c)**

5 Reconsideration of this Court's ruling is also appropriate because, at a
6 minimum, DCA should be required to post a bond. Fed.R.Civ.P. 65(c) provides:
7 SECURITY. The court may issue a preliminary injunction or a
8 temporary restraining order only if the movant gives security in an
9 amount that the court considers proper to pay the costs and damages
10 sustained by any party found to have been wrongfully enjoined or
11 restrained. The United States, its officers, and its agencies are not
12 required to give security.

13 As set forth in the statute, consideration of security in support of a
14 preliminary injunction motion is mandatory. *See Pashby v. Delia*, 709 F.3d 307,
15 332 (4th Cir. 2013) (district court must address security in granting preliminary
16 injunction).

17 Courts have discretion in setting the bond amount. However, courts hold
18 that the amount of the bond should be set on the "high side." *Mead Johnson &*
19 *Co. v. Abbott Labs.*, 201 F.3d 883, 888 (7th Cir. 2000); *see also Moore's Federal*
20 *Practice* at 13-65, § 65.50 ("In setting the amount of security for a preliminary
21 injunction, the trial court should err on the high side. An error in setting the bond
22 too high is not serious, because the fee to post bond is usually a fraction of the
23 amount of the bond and because any recovery on the bond would have to be
24 supported by proof of actual damages. On the other hand, an error on the low side
25 may produce irreparable injury, because damages for an enormous preliminary
26 injunction may not exceed the amount of the bond.")

1 As set forth above, ZACR contends that the Court’s preliminary injunction
 2 should be vacated. However, if the Court maintains the injunction, then given the
 3 balance of equities and the significant ongoing harm to ZACR, including the
 4 expected lost revenues over the next two years (or more), the amount of security
 5 should be set at more than \$15 million. *See, e.g., Nintendo of Am., Inc. v. Lewis*
 6 *Galoob Toys, Inc.*, 16 F.3d 1032, 1034 (9th Cir. 1994) (affirming award to
 7 defendant of entire bond amount set at \$15 million by district court); *Netlist Inc. v.*
 8 *Diablo Techs. Inc.*, Case No. 13-cv-05962-YGR, 2015 U.S. Dist. LEXIS 3285, at
 9 *39-40 (N.D. Cal. Jan. 12, 2015) (bond required based upon estimate of lost net
 10 profits due to preliminary injunction).

11 VI.

12 **CONCLUSION**

13 For the foregoing reasons, ZACR respectfully requests that this Court
 14 reconsider its earlier ruling and vacate the preliminary injunction prohibiting the
 15 delegation of the .Africa gTLD from ICANN to ZACR. Alternatively, if the
 16 Court is not inclined to vacate the injunction then, at a minimum, ZACR requests
 17 that the Court require DCA to post a significant security.

18
19 DATED: May 6, 2016

Respectfully submitted,

20 KESSELMAN BRANTLY STOCKINGER LLP

21
22 By: /s/ David W. Kesselman
 23 David W. Kesselman
 24 Amy T. Brantly

25 Attorneys for Defendant ZA Central
 26 Registry, NPC
 27
 28

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 10 *Attorneys for Defendant*
 11 **ZA Central Registry, NPC**

12 **UNITED STATES DISTRICT COURT**
 13 **CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION**

14 DOTCONNECTAFRICA TRUST, a
 15 Mauritius Charitable Trust,
 16 Plaintiff,
 17 v.

CASE NO. 2:16-cv-00862 RGK (JCx)
*Assigned for all purposes to the
 Honorable R. Gary Klausner*

18 INTERNET CORPORATION FOR
 19 ASSIGNED NAMES AND
 20 NUMBERS; a California corporation;
 21 ZA Central Registry, a South African
 22 non-profit company; DOES 1 through
 23 50, inclusive,
 24 Defendants.

**DECLARATION OF DAVID W.
 KESSELMAN IN SUPPORT OF
 ZACR’S MOTION TO
 RECONSIDER AND VACATE
 PRELIMINARY INJUNCTION
 RULING**

[Notice of Motion and Motion to
 Reconsider and Vacate Preliminary
 Injunction Ruling; Memorandum of
 Points and Authorities; Declaration of
 Mokgabudi Lucky Masilela; and
 [Proposed] Order Filed Concurrently
 Herewith]

Date: June 6, 2016
 Time: 9:00 a.m.
 Location: Courtroom 850

1 I, David W. Kesselman, hereby declare:

2 1. I am an attorney duly admitted to practice law before this Court, I am
3 a partner in the law firm of Kesselman Brantly Stockinger LLP, and I am counsel
4 of record for defendant ZA Central Registry, NPC (“ZACR”). If called upon to
5 do so, I could and would testify competently to the information set forth herein.

6 2. Pursuant to Central District Local Rule 7-3, I held a meet and confer
7 with Ethan Brown and Sara Colon, counsel for plaintiff DOTCONNECTAFRICA
8 TRUST (“Plaintiff”), on April 29, 2016. Despite our good faith efforts the parties
9 were unable to agree on the issues raised by ZACR’s motion to reconsider and
10 vacate the preliminary injunction ruling.

11 3. On April 5, 2016, during my initial meet and confer with Sara Colon,
12 counsel for Plaintiff, to discuss the grounds for ZACR’s motion to dismiss, I noted
13 that ZACR intended to assert that the Court lacked personal jurisdiction over
14 ZACR pursuant to Federal Rule of Civil Procedure 12(b)(2). After this Court
15 issued its ruling on the preliminary injunction, I informed Plaintiff’s counsel that
16 ZACR would forego the jurisdictional challenge to address the issues raised in this
17 litigation.

18 I declare under penalty of perjury under the laws of the United States of
19 America that the foregoing is true and correct.

20 Executed this 6th day of May, 2016 at Manhattan Beach, California.

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/s/ David W. Kesselman

DAVID W. KESSELMAN

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 10 *Attorneys for Defendant*
 11 **ZA Central Registry, NPC**

12 **UNITED STATES DISTRICT COURT**
 13 **CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION**

14 DOTCONNECTAFRICA TRUST, a
 15 Mauritius Charitable Trust,
 16
 17 Plaintiff,
 18 v.

19 INTERNET CORPORATION FOR
 20 ASSIGNED NAMES AND
 21 NUMBERS; a California corporation;
 22 ZA Central Registry, a South African
 23 non-profit company; DOES 1 through
 24 50, inclusive,
 25 Defendants.

CASE NO. 2:16-cv-00862 RGK (JCx)
*Assigned for all purposes to the
 Honorable R. Gary Klausner*

**DECLARATION OF MOKGABUDI
 LUCKY MASILELA IN SUPPORT
 OF DEFENDANT ZACR’S MOTION
 TO RECONSIDER AND VACATE
 PRELIMINARY INJUNCTION
 RULING**

[Notice of Motion and Motion to
 Reconsider and Vacate Preliminary
 Injunction Ruling; Memorandum of
 Points and Authorities; Declaration of
 David W. Kesselman; and [Proposed]
 Order Filed Concurrently Herewith]

Date: June 6, 2016
 Time: 9:00 a.m.
 Location: Courtroom 850

1 **DECLARATION OF MOKGABUDI LUCKY MASILELA**

2 I, Mokgabudi Lucky Masilela, hereby declare as follows:

3 1. I am the Chief Executive Officer of named defendant ZA Central
4 Registry, NPC (“ZACR”). I have personal knowledge of the matters contained
5 herein, except as to those matters asserted on information and belief, and as to
6 those, I believe them to be true. If called upon as a witness, I could and would
7 testify competently thereto.

8 2. ZACR is a South African non-profit company with its principal place
9 of business in Midrand, South Africa.

10 3. ZACR was originally formed in 1988 under the name UniForum S.A.
11 The purpose of the company was to promote open standards and systems in
12 computer hardware and software. In 1995, the company was assigned the
13 administration rights for the South African domain name, “co.za”. Today ZACR
14 has registered over 1 million co.za domain name registrations – or about 95% of
15 the total registrations for “.za.” Due to its well-known reputation for
16 independence and neutrality, as well as technical competence and operational
17 excellence, ZACR is the single largest domain name registry on the African
18 continent.

19 4. After Internet Corporation For Assigned Names and Numbers
20 (“ICANN”) formally launched the “New gTLD Program”, ZACR submitted an
21 application for the .Africa gTLD on June 13, 2012. I am aware that both ZACR
22 and DCA submitted their respective applications for the .Africa gTLD in the
23 Spring/ Summer of 2012. At the same time, ZACR also applied for, and obtained,
24 the .CapeTown, .Joburg and .Durban gTLDs, and these gTLDs have been
25 launched to the Internet public.

26 5. I am familiar with the ICANN selection criteria for the gTLD.
27 ICANN set forth selection criteria in an Applicant Guidebook. Among other
28

1 things, ICANN made clear that because the .Africa gTLD represented the name of
2 a geographic region, an applicant would need to provide documentation showing
3 support from at least 60% of the governments in the region. Further, ICANN
4 criteria provided that no more than one objection from a government or public
5 entity associated with the geographic region would be permitted. These criteria
6 are set forth in ICANN Application Guidebook Module 2, and available online at:
7 <http://newgtlds.icann.org/en/applicants/agb> par 2.2.1.4.2.4.

8 6. ZACR submitted its application to ICANN with the full support of
9 African Union member states via the African Union Commission (“AUC”)
10 endorsement. Specifically, the AUC, which serves as the Secretariat of the
11 African Union, provided a letter supporting ZACR’s application. A true and
12 correct copy of the July 2, 2013 AUC letter is attached as **Exhibit A**. In addition,
13 the only nonmember, Morocco, separately provided a letter supporting ZACR’s
14 application. A true and correct copy of the March 28, 2012 Moroccan letter of
15 support is attached as **Exhibit B**.

16 7. ZACR received the support of the African Union only after the AUC
17 publicized a request for proposal (“RFP”). This was an open bid process. The
18 AUC made clear that it was only going to support one applicant. By way of
19 background, the AUC RFP process began because it was well known that ICANN
20 was considering a new gTLD program, including .Africa. It was in anticipation of
21 this new gTLD program that the AUC decided to hold an RFP to support a single,
22 qualified applicant for the African Union. This is because the AUC was
23 specifically mandated by member states to set up the structures and modalities for
24 the implementation of the dotAfrica (.Africa) gTLD. Details of the process are
25 set forth in the September 29, 2015 AUC letter attached hereto as **Exhibit C**. This
26 letter is also available at: <http://africainonespace.org/downloads/GNP.PDF>
27
28

1 8. I was informed by AUC officials that Plaintiff DotConnectAfrica
2 Trust (“Plaintiff”) chose not to participate in the RFP. Ultimately, ZACR
3 prevailed in the RFP process and received the support of the AUC in its
4 application for the .Africa gTLD.

5 9. Attached as **Exhibit D** are the 17 “Early Warning Notices” from
6 individual African countries to Plaintiff’s application. These “Early Warning
7 Notices” are also available online at:

8 <http://africainonespace.org/content.php?tag=13&title=Resources>

9 10. The Registry Agreement between ICANN and ZACR was effective
10 on March 24, 2014 and runs for ten years. Yet, over two years into the
11 Agreement, the .Africa gTLD has still not been delegated to ZACR. In effect,
12 20% of the period of the Agreement has already lapsed without any benefit to
13 ZACR. This delay has resulted in unforeseen and mounting costs, as well as lost
14 opportunities, for the .Africa project.

15 11. ZACR has incurred considerable expenses both prior to and after
16 entering into the Registry Agreement. The current and continuing cost due to the
17 delay in the delegation is running at approximately \$20,000 per month. This is
18 based upon a review of the monthly costs incurred during the last 10 months for
19 the .Africa project, including the ongoing costs related to consultants, marketing,
20 sponsorships and related expenses. The importance of maintaining visibility for
21 the .Africa project, coupled with the ongoing need to interface with government
22 officials throughout the African continent, makes clear that these ongoing
23 expenses will continue during the course of this litigation. In determining these
24 figures, we averaged the monthly expenses for the .Africa project and where
25 necessary converted expenditures from South African Rand to U.S. dollars.

26 12. The Loss of Net Income after Tax (opportunity costs) suffered by
27 ZACR from the date of the planned delegation following the Registry Agreement
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1 through May 1, 2016, are now estimated to be approximately \$15 million (U.S.
2 dollars). Of that amount, approximately \$5.5 million would have been donated to
3 the dotAfrica Foundation for African online development. Until such time as
4 delegation takes place, the .Africa gTLD in effect stagnates and generates no
5 income and no value in the marketplace. The ongoing delay is also prejudicial to
6 the gTLD itself (no matter who the operator is) in that the initial interest
7 surrounding the launch of this domain name will have faded, and persons who
8 may have sought to register will have lost interest.

9 13. Once a gTLD is delegated it starts increasing in value. The gTLD is
10 at its lowest value prior to delegation and increases as the number of second level
11 domain delegations (for example: xyz.africa) increases. If Plaintiff is redelegated
12 the .Africa gTLD, it will suffer no irreparable harm as it will inherit a more
13 valuable gTLD without incurring the cost to develop it.

14 14. In my role as ZACR's CEO, and based upon my numerous and
15 ongoing discussions with political, business and civic leaders from throughout the
16 African Union, it is my firm understanding and belief that the ongoing delay in the
17 delegation of .Africa is depriving the people of the Africa continent of an
18 important opportunity to expand internet domain name capabilities. The .Africa
19 domain name would add brand value to the continent and would provide a
20 platform that connects products, businesses and individuals that have interests in
21 Africa. The African people are further harmed because the agreement between
22 ZACR and the AUC required that a foundation be created upon delegation and
23 that a significant portion of the revenues received from second level domain
24 delegations (for example: xyz.africa) be directed to the "dotAfrica Foundation."
25 The Foundation would use the revenues to fund various African domain name and
26 Internet related developmental projects which are now delayed as a result of the
27 preliminary injunction.

28

1 15. I am aware that ICANN builds in time limits in its gTLD registry
2 agreements. I am further informed, based upon my experience in the industry and
3 discussions with technical personnel within ZACR, that a re-delegation of a gTLD
4 is entirely feasible. In fact, ICANN has prepared for this precise eventuality and
5 issued a manual in 2013 providing step-by-step instructions for how to redelegate
6 a gTLD. The manual, titled “User Documentation on Delegating and
7 Redelegating a Generic Top Level Domain (gTLD),” makes clear that the process
8 is available and feasible if necessary. A true and correct copy of the manual is
9 attached hereto as **Exhibit E**. It is also available on ICANN’s website:

10 <https://www.icann.org/en/system/files/files/gtld-drd-ui-10sep13-en.pdf>

11 16. ZACR has never operated in California. ZACR has no personnel, no
12 offices, no bank accounts, and maintains no operations in California. ZACR has
13 no telephone listings or mailing addresses in California.

14 17. I have read Plaintiff’s First Amended Complaint, including the
15 allegations against ZACR. Contrary to what is asserted in the First Amended
16 Complaint, there was no fraud or conspiracy between ZACR and ICANN. Nor
17 was there any fraud or conspiracy with the AUC. Similarly, there was no
18 interference with Plaintiff’s application to ICANN. At all times, ZACR competed
19 fairly and abided ICANN’s procedures in seeking the award for the generic top
20 level domain .Africa.

21 I declare under penalty of perjury under the laws of the United States of
22 America that the foregoing is true and correct.

23 Executed this 6 day of May 2016 at Georgetown DC .

24 

25 _____
26 MOKGABUDI LUCKY MASILELA

EXHIBIT A

AFRICAN UNION

الاتحاد الأفريقي



UNION AFRICAINE

UNIÃO AFRICANA

Ref.: CIE/L/20/237.13

Date: 2nd July 2013

Mr. Fadi Chehade,
President and CEO
Internet Corporation
For Assigned Names and Numbers (ICANN)
Tel: +1 310 301 5800
Fax: +1 310 823 8649
Email: Chehade@icann.org

Subject: Letter for support for the .Africa (dotAfrica) TLD application, (ID 1-1243-89583) submitted by the UniForum SA (NPC) t/a Registry.Africa.

Dear Mr. President and CEO,

This letter serves to confirm that the African Union Commission (AUC) fully supports and endorses the application for the .Africa (dotAfrica) TLD string (Application ID 1-1243-89583) submitted to ICANN by UniForum SA (NPC) trading as Registry .Africa in the New gTLD Program. Furthermore as the relevant government authority for the purpose of the above application, the AUC hereby confirms that it represents the interests and support of 54 African governments

As you may be aware, the AUC is comprised of various Portfolios, namely Peace and Security; Political Affairs; Infrastructure and Energy; Social Affairs; Trade and Industry; Rural Economy and Agriculture; Human Resources, Science and Technology; and Economic Affairs.

As the Commissioner, I confirm that I have the authority of the African Union Commission and African member states to be writing to you on this matter. The African Union Commission is the Secretariat of the African Union entrusted with executive functions. The AUC represents the African Union and protects its interest under the auspices of the Assembly of the Heads of States and Government.

In terms of the .Africa (dotAfrica) TLD, the AUC operates under a specific mandate from African Member States as outlined in the Abuja Declaration (Third Conference of African Ministers in Charge of Communications and Information Technologies, held in Abuja, Nigeria in August 2010).

In terms of the above ministerial declaration the AUC has been requested to "set up the structure and modalities for the Implementation of the dotAfrica project". This has in turn commenced an extensive and on-going governmental engagement process by the AUC concerning the .Africa (dotAfrica) TLD, as is evidenced by, amongst others:

- The individual government letters of support and endorsement for the AUC initiated application process; and

ARISE!

1 AFRICA 2063
PROSPERITY & PEACE

Addis Ababa, Ethiopia, P.O. Box: 3243, Tel.: (251-11) 5182402 Fax: (251-11) 5182400 [Web: www.au.int](http://www.au.int)

- The overwhelming government support and participation in the GAC (Government Advisory Committee) processes concerning Early Warnings and Advice.

The primary objective of the .Africa (dotAfrica) gTLD string is: "to establish a world class domain name registry operation for the .Africa Top Level Domain (TLD) by engaging and utilising African technology, know-how and funding; for the benefit and pride of Africans; in partnership with African governments and other ICT stakeholder groups."

Our collective mission is to establish the .Africa (dotAfrica) TLD as a proud identifier of Africa's online identity fairly reflecting the continent's rich cultural, social and economic diversity and potential. In essence we will strive to develop and position the .Africa (dotAfrica) TLD as the preferred option for individuals and business either based in Africa or with strong associations with the continent and its people.

The .Africa (dotAfrica) TLD represents a unique opportunity for Africa to develop and enhance its domain name and Internet eco-systems and communities by collaborating with each other to:

- Identify, engage and develop African-based specialist skills and resources
- Share knowledge and develop DNS thought-leadership; and
- Implement world class registry standards and contribute towards their continued development.

The AUC has worked closely with the applicant, UniForum SA t/a Registry.Africa), concerning the preparation and lodgment of the TLD application and will continue to do so throughout the launch and regular administration of the .Africa (dotAfrica) TLD.

The AUC supports this application, and in doing so, understands that in the event that the application is successful, UniForum SA (NPC) trading as Registry .Africa will be required to enter into a Registry Agreement with ICANN. In doing so, they will be required to pay fees to ICANN and comply with consensus policies developed through the ICANN multi-stakeholder policy processes.

The AUC further understands that, in the event of a dispute between the African Union Commission and applicant, ICANN will comply with a legally binding order from a court in the jurisdiction of the AUC.

The AUC understands that the Geographic Names Panel (GNP) engaged by ICANN, will, among others, conduct a due diligence on the authenticity of this documentation. I would request that if any additional information is required during this process, the GNP to contact my office in the first instance.

Thank you for the opportunity to support this application.

Dr. Elham M.A. IBRAHIM (Mrs)
Commissioner
Infrastructure and Energy

ARISE!

1 AFRICA 2063
PROSPERITY & PEACE

Addis Ababa, Ethiopia, P.O. Box: 3243, Tel.: (251-11) 5182402 Fax: (251-11) 5182400 [Web: www.au.int](http://www.au.int)

EXHIBIT B

Royaume du Maroc
Ministère de l'Industrie,
du Commerce et des
Nouvelles Technologies



#3506 المملكة المغربية
وزارة الصناعة
والتجارة
والتكنولوجيات الحديثة

28 MARS 2012

(Courtesy Translation)

To : Mr. Rod BECKSTROM
CEO of ICANN
Marina Del Rey, CA, USA

Subject: ICANN / allocation of the new gTLD extension dotAfrica.

I have the honor to inform you that the Kingdom of Morocco has taken note of the launch process for new gTLD extensions by the Internet Corporation for Assigned Names and Numbers (ICANN) and commends its efforts for the success of this new initiative that shall expand the scope of the Internet for the promotion of economy, trade and culture in the world.

In this context, the allocation of dotAfrica represents an opportunity for the African continent to have a new gTLD extension, to serve as a tool for developing the industry of domain names in Africa, promoting economic, commercial and cultural interests among African governments with the participation of communities of Internet users in Africa.

The Kingdom of Morocco attaches great importance to the establishment of good governance of the Internet in Africa, based on the principles of transparency, neutrality, and solidarity, away from any political bidding or instrumentalization against the interests of the African member states of the United Nations Organization.

The Kingdom of Morocco is willing to contribute to the success of the new gTLD extension "dotAfrica", provided that the rules and procedures for registering domain names under the new extension subscribe to the principles defended by ICANN, and respect the sovereignty and territorial integrity of the African member states of the United Nations Organization, in accordance with the relevant GAC communiqués.

In this context, the Kingdom of Morocco supports the establishment of a steering committee, whose methods of operation and decision making should be based on collegiality and consensus. Further, the responsibilities of the steering committee shall include the establishment of a "Terms of use" of this domain name, provided that this Committee shall include representatives from Morocco.

Considering the above, and after examining the support request by the company UNIFORM ZACR, consistent with the principles mentioned above, the Government of the Kingdom of Morocco supports the application of this company concerning the gTLD "dotAfrica".

Best regards.

Le Directeur de l'Économie
Numérique

Signé : Boubker Seddik BADR

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www.mcinet.gov.ma



EXHIBIT C

AFRICAN UNION

الاتحاد الأفريقي



UNION AFRICAINE

UNIÃO AFRICANA

Ref.: CIE/L/02/360.15.15

Date: 29 September 2015

Attention: Geographic Names Panel (GNP)

ICANN, New gTLD Application Program

12025 Waterfront Drive, Suite 300

Los Angeles, CA 90094-2536

USA

newgtld@icann.org

Subject: Clarification of the position of the African Union Commission (AUC) and the United Nations Economic Commission for Africa (UNECA) on the matter concerning the application of the dotAFRICA (.AFRICA) Top Level Domain and how this relates to support from relevant governments in terms of the new gTLD Applicant Guidebook.

Dear Sirs,

The African Heads of States, through the Oliver Tambo Declaration of 5th November 2009, expressed the need to prioritise the delegation of a new continental geographic Top Level Domain Name, dotAFRICA (.Africa).

In addition, African ICT Ministers issued a directive to the African Union Commission (AUC), contained in the Third Ordinary Session Abuja Declaration 2010, to '*set up the structures and modalities for the implementation of the DotAfrica (.AFRICA) Project*'.

In order to fulfil this mandate by African governments, the AUC in an open and transparent process, on 12 May 2011, called for all interested parties to submit 'Expression(s) of Interest' (EOI) to manage the .Africa TLD. This process was then followed by a call for proposals (RFP), which culminated in the appointment of UniForum SA (now referred to as the ZA Central Registry 'ZACR') as the successful applicant to carry the endorsement and support of the AUC during the new gTLD process to apply for the dotAFRICA (.Africa) TLD.

To be clear, the application submitted by ZA Central Registry (ZACR) trading as Registry. Africa [1-1243-89583] is the only application officially endorsed and supported by the AUC and hence African member states. The AUC officially endorsed the ZACR application in our letter dated 4 April 2012, which was followed by our letter of support dated 2 July 2013.

We have also written to ICANN on numerous occasions confirming our official position on this matter. Our position has also regularly been communicated to our colleagues within the Government Advisory Committee (GAC), which ultimately resulted in 17 (seventeen) Early Warning notices and Consensus GAC Advice being issued against a competing application submitted by DotConnectAfrica Trust (DCA) [application ID: 1-1165-42560].

As you are aware, according to the Applicant Guidebook, the process of submitting applications to ICANN for geographic TLDs requires written support from over 60% of the relevant governments and/or governmental authorities. The purpose of this letter is to clarify the issue of government support for the dotAFRICA (.Africa) TLD application in terms of ICANN new gTLD application process. This is particularly relevant in your evaluation of the DCA application and whether it meets the minimum requirements for government support.

1. Any reliance by DCA in its application [application ID: 1-1165-42560], proclaiming support or endorsement by the AUC, must be dismissed. The AUC does not support the DCA application and, if any such support was initially provided, it has subsequently been withdrawn with the full knowledge of DCA even prior to the commencement of ICANN's new gTLD application process. My office stands ready to engage with the GNP to clarify and affirm this position if this is required.
2. Any reliance by DCA in its application [application ID: 1-1165-42560], proclaiming support or endorsement by the United Nations Economic Commission for Africa (UNECA), must be dismissed. The UNECA, by its own acknowledgement, does not have the mandate or authority to represent the support of African governments on this matter. Please refer to the attached letter from the UNECA, signed by Ms. Sandra Baffoe-Bonnie (Secretary of the Commission and Legal Advisor) confirming this position.
3. Any reliance by DCA in its application [application ID: 1-1165-42560], proclaiming support or endorsement from any individual African member state, must be treated with utmost caution and sensitivity. Member states are signatories to the Oliver Tambo Declaration and the ICTs Ministers Abuja Declaration and as such they support the position of the AUC on this matter as outlined above. We urge the GNP to carefully test the veracity and relevance of any such letter of support from an African member state before placing reliance thereon. My office stands ready to assist the GNP to clarify and affirm the validity and relevance of any such letter with the applicable member state.
4. To further amplify the position of African member states, as represented by the AUC, on the matter of the dotAFRICA (.Africa) TLD, I attach the latest Declaration issued by African ICT Ministers in Addis Ababa during September 2015.

Please accept, Dear Sirs, the assurance of my highest consideration.


Dr. Elham M.A. IBRAHIM (Mrs)
Commissioner for
Infrastructure and Energy



Case 2:16-cv-00862-RGK-JC Document 85-4 Filed 05/06/16 Page 9 of 110 Page ID
#:3510

AFRICAN UNION

الاتحاد الأفريقي



UNION AFRICAINE

UNIÃO AFRICANA

**FIRST ORDINARY SESSION OF THE AFRICAN UNION
SPECIALIZED TECHNICAL COMMITTEE ON
COMMUNICATION AND INFORMATION TECHNOLOGIES (STC-CICT)
ADDIS ABABA, ETHIOPIA,
31 AUGUST – 4 SEPTEMBER 2015**

AU/STC-CICT-1/MIN/Decl.(I)Rev 1

**2015 ADDIS ABABA DECLARATION
STC - CICT 1**

2015 ADDIS ABABA DECLARATION STC CICT 1

PREAMBLE

We, the Ministers in charge of Communication and Information and Communication Technology (CICT) and Postal Services meeting in our First Ordinary Session of the Specialized Technical Committee on Communication and Information & Communication Technologies (**STC-CICT-1**) in Addis Ababa, Federal Democratic Republic of Ethiopia, from 3 to 4 September 2015;

Guided by the Constitutive Act of the African Union (AU);

Recalling the Assembly Decisions Assembly/AU/Dec.227 (XII) and Assembly/AU/Dec.365 (XVI) adopted in January 2009 and July 2011 respectively on the configuration of the Specialized Technical Committees (STCs) and the modalities for their operationalization;

Bearing in mind the Declaration Assembly/AU/Decl.1 (XIV) adopted by the 14th Ordinary Session of the Assembly of the African Union on Information and Communication Technologies in Africa, Challenges and Prospects for Development, held in Addis Ababa, Ethiopia, in February 2010;

Considering the Assembly Declaration, Assembly/AU/Decl.2 (XVIII) adopted by the 18th Ordinary Session of the Assembly of the African Union held in Addis Ababa, Ethiopia, in January 2012, on the Programme for Infrastructure Development in Africa (PIDA);

Recalling the decision Assembly /AU/Dec.508 (XXII) of the African Union held in January 2014, Addis Ababa, Ethiopia, endorsing the SMART Africa Manifesto and its implementing framework;

Recalling the Decision Assembly /AU/Dec. 533 of the XX III Assembly of the African Union held in June 2014, in Malabo, Equatorial Guinea, which requested the creation of an African Technical Committee for the Information and Media Society to guide Member States in their transition towards the full digital broadcasting;

Recalling the decision Assembly/AU/Dec.558 (XXIV), Assembly of the African Union held in January 2015 in Addis Ababa, Ethiopia on the creation of an African Center for Information Technologies;

Considering the decision Assembly /AU/Dec.563 (XXIV) of the African Union Assembly held in January 2015 in Addis Ababa, Ethiopia, welcoming the One Africa Network Initiative and recommending Member States to adopt and roll out this initiative;

Considering the decision of the 5th Session of the Assembly of Heads of State and Government held in July 2005, in Sirte, Libya on the establishment of a Pan-African Radio and Television Channel - Doc. EX.CL/205 (VII);

Considering the Decision of the Executive Council on the AU Conference Of Ministers Of Information and Communication towards the Establishment of the Pan African Radio and TV Channels - EX.CL/ Dec.296 (IX) - Doc. Ex. CL / 266 (IX), Banjul, Gambia June 2006;

Recalling the Decision of the Executive Council (EX.CL/Dec.505 (XV), Sirte, Libya July 2009 on the set up of a Pan African Media Observatory;

Noting that the current situation of the Communication and ICT subsectors in Africa still face many challenges despite the very significant gains in some areas and in particular segments of the African Media landscape, Telecoms/ICT and postal services;

Reaffirming that Communication and ICT are key to Africa's development and economic competitiveness and in the attainment of the African Union Vision and the goals of the Agenda 2063;

Further noting that Communication and ICT including cyber security and the issues of Internet Governance represent an opportunity to develop an Information Society and enhance right means to catch up with the rest of the developed world in several areas of the human and socio-economic development in Africa ;

Considering that Africa should have its own voice to speak to the world, tell its own story from its own perception and in its own words;

Welcoming the configuration and operationalization of the Specialized Technical Committee on Communication and ICT (STC-CICT);

Taking note of the Report of the Experts' Session held in Addis Ababa, Ethiopia from 31st August to 2 September 2015;

Having elected the following bureau of the STC-CICT:

WEST AFRICA	
Mali	Chair of the Bureau
EAST AFRICA	
Tanzania	1 st Vice Chair of the Bureau
CENTRAL AFRICA	
Gabon	2 nd Vice Chair of the Bureau
NORTHERN AFRICA	
Algeria	3 rd Vice Chair of the Bureau
SOUTHERN AFRICA	
South Africa	Rapporteur of the Bureau

HEREBY COMMIT OURSELVES TO:

1. **CONTINUE** to promote the implementation of previous Decisions and Declarations adopted by the Assembly of the African Union, the Executive Council and the African Union Conference of Ministers in charge of Communication and Information & Communication Technologies, particularly those relating to the:

- Establishment of Pan African Radio and Television Channels;
 - AU Communication and advocacy Strategy 2014-2017;
 - AU Branding Campaign;
 - Agenda 2063 and its Communication Strategy;
 - African media development initiatives (Pan African Media Observatory, Pan African Media Network and Pan African Media Portal);
 - Safety and Protection of African Journalists;
 - Pan African Platform on Access to Information (APAI);
 - Program for Infrastructure Development in Africa (PIDA);
 - Implementation of Dot Africa;
 - African Internet Exchange Point (AXIS);
 - Harmonization of Policies and Regulation;
 - Action Plan for the Development of the Postal Sector in Africa notably the addressing and the postcodes system, the connectivity and electrification of Post offices in rural areas, and the financial inclusion of the low-income population;
 - Pan African e-Network for Tele medicine and Tele education (PAeN);
 - SMART Africa Manifesto;
 - One Africa Network Initiative;
2. **WORK** together towards adopting a common position and harmonized policies on the use common scarce resources such as orbital slots, spectrum, Domain Name Systems;
 3. **COMMIT** to collaborate with relevant local and international stakeholders on the Internet Governance, Cybersecurity and Cyber criminality;
 4. **WORK** with our counterparts Ministers in charge of transport and energy to ensure the deployment of ducts for fiber optic on national and regional infrastructure network roll-outs;
 5. **INTEGRATE** the Development of African local Content in all our strategies related to Communication and ICT;
 6. **DEVELOP** and implement policies on access to information, freedom of expression and the safety of journalists; strengthen the capacity of African media personnel and reinforce the Pan African media landscape;
 7. **JOIN** efforts to enforce the visibility of the symbols and image of the AU at national levels;
 8. **STRENGTHEN** the cooperation with the African private sector for mobilization of resources for Communication and ICT projects especially in rural and remote areas;
 9. **PROMOTE** and attract investment in communication and ICT sectors for localisation;
 10. **ENCOURAGE** development partners to fully support the implementation of the continental joint initiative for the connectivity of Post Offices;

HEREBY REQUEST MEMBER STATES TO:

11. **PROVIDE** all required support to the African Union Commission (AUC) as the only vehicle for the implementation of Dot Africa and withdraw all supports provided to competing applications to the one championed by AUC;
12. **COORDINATE** efforts in collaboration with the Regional Economic Communities (RECs) regarding the modalities of the establishment of the Pan African TV and Radio channels as well as the promotion of African content exchange platforms to develop local content;
13. **AUTHORISE** the establishment of a working group / follow-up Committee to examine the Study Report of the Pan African Radio and TV channels , discuss the modalities of its operationalization, including the funding models and agree on the proposed scheme of setting up, based on the Member States' inputs and comments;
14. **WORK** in consultation with AUC on the implementation and ownership of the AU communication and Advocacy strategy, and the AU branding campaign;
15. **WORK** together to own the AU Agenda 2063, to position it in the mind of all African citizen, and to contribute to its implementation and domesticate its communication strategy by mobilizing African citizens around its objectives and programmes ;
16. **ACCELERATE** the signature and the ratification of the AU Convention on Cyber Security and Personal Data Protection and the development of National Cyber-Security legislations and creation of national and regional Computer Emergency Response Team (CERT) and/or Computer Incident Response Team (CIRT);
17. **PREPARE** strategies and plans for the migration from IPv4 to IPv6;
18. **WELCOME** the creation of Network of Journalists for Peace and Security in Africa (NetPeace) and work towards the finalization of the draft strategy for African Journalists Safety and Protection;
19. **PROMOTE** national and regional Internet Governance Forum (IGFs) through provision of technical and financial resources and participation in their activities;
20. **CONTRIBUTE TO** the finalization of the draft proposed outer space policy and strategy;
21. **NOTE** the efforts made by AUC to ensure the sustainability of the Pan African e-Network for Tele Medicine and Tele Education (PAeN) and commend the Indian Government for the extension of its assistance to the PAeN;
22. **NOTE** the importance of the sustainability of the network (PAeN) and services upon its transfer to the African Party;
23. **CONSIDER** the Option 1 of the PAeN Sustainability Action Plan as viable option and exhort Member States notably those who have signed the PAeN agreements to contribute to the financing and participate in the implementation of the PAeN Sustainability Action Plan. The amount of the contribution of each participating

Member State should take into consideration the total budget and also the level of use of services by this Member, after further consultations on the matter through appropriate channels. Contributions should be made before the date of the transfer to the African Party.

24. **REQUEST** the AUC in collaboration with the STC-CICT Bureau to set up the structures of governance in charge of the management of the PAeN as per the Sustainable Action Plan's OPTION 1 after its hand over to the African Party;
25. **PROMOTE** and respect the principles in the declaration on the Pan African Platform on Access to Information (APAI) while not contradicting national sovereignty and celebrate the 28 September as "**African Right to Information Day**";
26. **SUPPORT** and accelerate the implementation of the local content exchange network MEMOS (**Multimedia Exchange Network Over Satellite**) on continent wide by facilitating access to financing sources to the African Union of Broadcasting and its Members;
27. **SUPPORT** the African Union of Broadcasting for the procurement at affordable price of broadcasting rights for sport events and take in charge the Memorandum established to that end by the African Union of Broadcasting;
28. **EXHORT** Member States to : (i) incorporate addressing and postcode systems project in national development plans and adopt and publish strategies for their smooth implementation, (ii) take ownership of the project on electrification and connectivity of Post offices in Africa with the view to leveraging postal networks for socio-economic development of rural and remote areas in Africa and, (iii) make required resources available through avenues such as national budget, universal service funds, public-private partnerships, international development partners, etc., to upgrade and improve postal infrastructure by ensuring post offices have access to stable energy supply and are connected to internet, so as to deliver social and financial inclusion;
29. **ENCOURAGE** Member States and the Pan African Postal Union (PAPU) to explore the utilization of the Regional African Satellite Communications Organization (RASCOS) solution in implementing the project on Electrification and Connectivity (ECP) of Post Offices in Africa;
30. **ACCELERATE** the implementation of the Smart Africa Manifesto (Decision Assembly AU//Dec/.508(XXII));

ALSO REQUEST:

31. **Member States** to consider the use of RASCOS's solution in the implementation of national, regional and continental ICT development policies and projects;
32. **Member States** which have not yet sent a letter to the US State Department approving the amendment to article XII (c) (ii) of the International Telecommunication Satellite Organization (ITSO) Agreement, to do so;
33. **Member States** to participate in the rolling out the "One Africa Network" as per the

Decision of the AU Assembly (Assembly /AU/Dec.563 XXIV) adopted in January 2015;

34. **The African Telecommunication Union (ATU)** in collaboration with the Member States, RECs and AUC as well as other concerned stakeholders to:
 - Note that African Common Position discussion on the C Band are ongoing
 - Urge Member States to actively participate in World Radiocommunication Conference 2015 (WRC-15) and continue to support the African Common Position submitted to the International Telecommunication Union (ITU)
 - Pursuit studies related to C Band current (re)allocation until an alternative solution is found and adopted to fulfill the current need of satellites services;
35. **Member States** to support spectrum allocation at WRC-15 to enable Global Flight Tracking;
36. **The United Nations Economic Commission for Africa (UNECA)** to provide AUC with all required support for the implementation of Dot Africa including the withdrawal of all support provided earlier to any other entity on matters related to dot Africa;
37. **The Pan African Postal Union (PAPU)** in collaboration of the Member States, RECs and AUC to develop a continental project on addressing systems and mobilize the required resources to assist Member States with the implementation;

FURTHER REQUEST THE AFRICAN UNION COMMISSION TO:

38. **STUDY** practical modalities to create a structure for coordinating production/coproduction and exchange of contents among Member States Broadcasting channels;
39. **ENSURE** the follow up of the signing and ratification by Member States of the African Union Convention on Cyber-Security and Personal Data Protection;
40. **SUBMIT** ad hoc reports on: (i) the Addressing and postcode systems to other pertinent STCs namely to the Committee on Finance, Economic Planning and Integration and/or to the Committee on Public Services, Local Government Urban Development and Decentralization for further support and, (ii) the electrification and connectivity of Post offices to the Committee on Finance, Economic Planning and Integration, and to the Committee on Transport, Transcontinental and Interregional Infrastructures , Energy and Tourism;
41. **MONITOR AND REPORT** in collaboration with UNECA on the implementation of the resolution 924 (XLVII) of the joint AU and UNECA Conference of Ministers of Economy and Finances (CAMEF);
42. **PARTICIPATE** in the Regional IGF in collaboration with UNECA and the RECs;
43. **CONTRIBUTE** to implementing the “One Africa Network Initiative” by supporting the creation of a Working Group on the technical, legal and strategic details for the implementation of the initiative and submit in collaboration with the implementing

body a report to the next STC-CICT ordinary session;

44. **CONTINUE** to support the African Technology and Information Center initiated by the Republic of Chad (CATI) and accelerate the implementation of activities in collaboration with Chad according to the Decision Assembly/AU/Dec.558 (XXIV) held in Addis Ababa, January 2014,

Done in Addis Ababa, Ethiopia, on 4th September 2015

The Ministers

EXHIBIT D

GAC Early Warning – Submittal Africa-AUC-42560

Application ID:	1-1165-42560
Entity/Applicant Name:	Dot Connect Africa
String:	dotAfrica
Early Warning Issue Date:	20 November 2012

Early Warning Description – This will be posted publicly:

The African Union Commission wishes to express its objection to the application submitted by Dot Connect Africa (DCA) for the .Africa geographic Top Level Domain.

The African Union Commission (AUC) has the mandate of African governments to ‘establish dotAfrica as a continental (geographic) To-Level Domain for use by organisations, businesses and individuals with guidance from African Internet Agencies’ and ‘to set up the structures and modalities for the implementation of dotAfrica project’ as provided for in the Abuja Declaration. In keeping with this mandate and following an open and transparent Request for Proposal process, UniForum SA, trading as the ZA Central Registry, was appointed as the registry operator to manage and administer the dotAfrica gTLD on behalf of the African Community for the benefit of the African region.

The application fails to meet the minimum requirements prescribed by ICANN in the gTLD Applicant Guidebook concerning geographic names.

- It is a geographic string application that does not have the requisite minimum support from African governments.
- DCA's application constitutes an unwarranted intrusion and interference on the African Union Commission's (AUC) mandate from African governments to establish the structures and modalities for the Implementation of the dotAfrica (.Africa) project; and
- Its application does not adequately and substantively differentiate itself from the AUC's officially endorsed application for the dotAfrica (.Africa) geographic string and as such will likely result in public confusion with ensuing adverse affects on the goodwill and effectiveness of the African TLD space.
- Post-amendment, DCA's applied for string is identical to the dotAfrica (.Africa) application officially endorsed by the African Union Commission (AUC) and the 39 individual African governments that have submitted letters of support per the Applicants' Guide Book (Ref # 1-1234-89583).

GAC Early Warning – Submittal Africa-AUC-42560

Reason/Rationale for the Warning – This will be posted publicly:

- **DCA’s Application lacks the requisite Government Support**
 - Paragraph 2.2.1.4.2 (section 2-16) of the Applicants’ Guidebook prescribes that certain applied-for-strings may qualify as “Geographic Names” and must therefore be accompanied by documentation of support or non-objection from the relevant governments or public authorities. In particular, the guidebook requires at least 60% of the relevant national governments in a region to provide documentation in support of new applications for geographic strings and there must be no more than one written statement of objection.
 - Africa is a clearly designated geographic region as defined in the UNESCO “Composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings” list. In this regard the designation of the official AUC endorsed dotAfrica (.Africa) TLD string application as a geographic name is therefore technically and procedurally correct. The AUC is confident that the “geographic evaluation process” that this application is subject to provides sufficient checks and balances for the protection of interests and rights of African governments and the pan-African community.
 - The issue as to whether DCA’s application for the .dotAfrica string (1-1165-42560) will constitute a geographic name as outlined in the Applicant’s Guidebook is uncertain, notwithstanding the fact that the applicant itself has designated the application as a “geographic name”.
 - According to the Applicant’s Guidebook (section 2-17) *“Strings that include but do not match a Geographic Name will not be considered geographic names as defined in section 2.2.1.4.2 and therefore will not require documentation of government support in the evaluation process.”*
 - DCA’s amended application is identical to the AUC-endorsed application and must be regarded as a geographic name for purposes of evaluation. It must consequently be subjected to the criteria and rules applicable to the evaluation of geographic names, including government support.
 - In particular we contend that the DCA’s amended .Africa application does not sufficiently differentiate it from the AUC’s endorsed dotAfrica (.Africa) geographic string application and will therefore confuse the public.
 - Being a Union of 54 (fifty four) African states and specifically being mandated by these states to *“Set up the structure and modalities for the Implementation of the dotAfrica (.Africa) project”* the AUC is in an authoritative position to declare African government support or opposition to any “Africa” geographic string application.
 - In contrast to the DCA application, the AUC’s officially endorsed dotAfrica (.Africa) geographic application (1-1234-89583) has the support of over 39 (thirty nine) individual national governments in Africa, which exceeds the minimum governmental support prescribed by ICANN for new geographic strings.
- **Unwarranted Interference and Intrusion**
 - DCA’s application constitutes an unwarranted intrusion and interference with the mandate given to the AUC by African Head of States and African Ministers responsible for Communication and Information Technologies. In this regard the AUC has been mandated to establish dotAfrica (.Africa) as a continental Top-Level Domain for use by organisations, businesses and individuals with guidance from African Internet Agencies and in doing so to set up the structures and modalities for the implementation of the dotAfrica (.Africa) project. DCA’s persistent interference in this process is likely

GAC Early Warning – Submittal Africa-AUC-42560

to have substantive political, economic and social repercussions in Africa.

3. Confusing Similarity

- DCA’s applied for string (.Africa) is identical to the dotAfrica (.Africa) geographic application as officially endorsed by the AUC. Should DCA’s application be allowed to proceed, it is likely to deceive and/or confuse the public into believing that the AUC is associated with, or endorses their application, which we clearly do not.

- In particular, we contend that the amended DCA’s .Africa application does not sufficiently differentiate it from the AUC’s endorsed dotAfrica (.Africa) geographic application and will therefore confuse and deceive the public.

Possible Remediation steps for Applicant – This will be posted publicly:

Further Notes from GAC Member(s) (Optional) – This will be posted publicly:

GAC Early Warning – Submittal Africa-AUC-42560

INFORMATION FOR APPLICANTS

About GAC Early Warning

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Instructions if you receive the Early Warning

ICANN strongly encourages you work with relevant parties as soon as possible to address the concerns voiced in the GAC Early Warning.

Asking questions about your GAC Early Warning

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Continuing with your application

If you choose to continue with the application, then the “Applicant’s Response” section below should be completed. In this section, you should notify the GAC of intended actions, including the expected completion date. This completed form should then be sent to gacearlywarning@gac.icann.org. If your remediation steps involve submitting requests for changes to your application, see the change request process at <http://newgtlds.icann.org/en/applicants/customer-service/change-requests>.

In the absence of a response, ICANN will continue to process the application as submitted.

Withdrawing your application

If you choose to withdraw your application within the 21-day window to be eligible for a refund of 80% of the evaluation fee (USD 148,000), please follow the withdrawal process published at <http://newgtlds.icann.org/en/applicants/customer-service/withdrawal-refund>. Note that an application can still be withdrawn after the 21-day time period; however, the available refund amount is reduced. See section 1.5 of the Applicant Guidebook.

For questions please contact: gacearlywarning@gac.icann.org

GAC Early Warning – Submittal Africa-AUC-42560

Applicant Response:

GAC Early Warning – Submittal Africa-BJ-42560

Application ID:	Ref# 1-1165-42560
Entity/Applicant Name:	DotConnectAfrica (DCA)
String:	.Africa
Early Warning Issue Date:	20 November 2012

Early Warning Description – This will be posted publicly:**GAC Member(s) to indicate a description of the Early Warning being filed**

The Government of Bénin wishes to express objection to the application submitted by DotConnectAfrica (DCA) for the .Africa geographic Top Level Domain.

The African Union Commission (AUC) is a Union of 54 (fifty four) African states and [has the mandate](#) of African governments for "establishment of dot Africa as a continental Top-Level Domain for use by organizations, businesses and individuals with guidance from African Internet Agencies" and "set up the structure and modalities for the implementation of the dotAfrica project" as provided for in the [2010 Abuja Declaration](#). In keeping with this mandate and following an open and transparent Request for Proposal process, UniForum SA, trading as the ZA Central Registry, was appointed the registry operator to manage and administer the dotAfrica gTLD on behalf of the African Community and for the benefit of the African region.

The DotConnectAfrica application as revised,

- Does not meet the requirements concerning geographic names as described in the new gTLD Applicant Guidebook, since it does not satisfy the required minimum support of concerned (African) governments;
- Constitutes an unwarranted intrusion and interference on the African Union Commission's (AUC) mandate from African governments to establish the structures and modalities for the Implementation of the dotAfrica (.Africa) project; and
- Is identical to the dotAfrica (.Africa) application officially endorsed by the African Union Commission (AUC) and the 39 individual African governments who have submitted letters of support per the Applicants' Guide Book (Ref # 1-1243-89583).

Reason/Rationale for the Warning – This will be posted publicly:

GAC Early Warning – Submittal Africa-BJ-42560

GAC Member(s) to indicate the reason and rationale for the Early Warning being filed.

The African Union (AU) and several African countries have supported and endorsed the application by UniForum (**Ref # 1-1243-89583**), which was selected through a transparent process conducted by the African Union Commission, as directed by the AU CITMC (Communications and Information Technology Ministerial Conference). The African Union has taken steps to ensure that UniForum will operate .Africa for the public good of the people of Africa, and will put in place sufficient checks and balances for the protection of interests and rights of African governments and the pan-African community.

The Government of Bénin therefore hereby records its objection to the DotConnectAfrica application which is competing with the UniForum application that has the support and endorsement of the African Union and an overwhelming number of African governments.

1. DCA's Application lacks the requisite Government Support

- Paragraph 2.2.1.4.2 of the Applicants' Guidebook prescribes that certain applied-for-strings may qualify as "Geographic Names" and must therefore be accompanied by documentation of support or non-objection from the relevant governments or public authorities. In particular, the guidebook requires at least 60% of the relevant national governments in a region to provide documentation in support of new applications for geographic strings and there must be no more than one written statement of objection.
- Africa is a clearly designated geographic region as defined in the UNESCO "Composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings" list. In this regard the designation of the official AUC endorsed dotAfrica (.Africa) TLD string application as a geographic name is therefore technically and procedurally correct. The "geographic evaluation process" that this application is subject to, provides sufficient checks and balances for the protection of interests and rights of African governments and the pan-African community.
- The issue as to whether DCA's application for the .dotAfrica string (**1-1165-42560**) will constitute a geographic name as outlined in the Applicant's Guidebook is uncertain, notwithstanding the fact that the applicant itself has designated the application as a "geographic name".
- According to the Applicant's Guidebook (section 2-18) "*Strings that include but do not match a Geographic Name will not be considered geographic names as defined in section 2.2.1.4.2 and therefore will not require documentation of government support in the evaluation process*", which used to be the case of DCA's application before being amended. Now, after amendment, it is identical to the AUC-endorsed application and must be regarded as a geographic name for purposes of evaluation. Consequently, it must be subject to the criteria and rules applicable to the evaluation of geographic names, including government support.
- In contrast to the DCA application, the AUC's officially endorsed dotAfrica (.Africa) geographic application (**1-1243-89583**) has the support of over 39 (thirty nine) individual national governments in Africa, which exceeds the minimum governmental support prescribed by ICANN for new geographic strings.

2. Unwarranted Interference and Intrusion

- DCA's application constitutes an unwarranted intrusion and interference with the mandate given to the AUC by African Head of States and African Ministers responsible for Communication and

GAC Early Warning – Submittal Africa-BJ-42560

Information Technologies. In this regard the AUC has been mandated to establish dotAfrica (.Africa) as a continental Top-Level Domain for use by organisations, businesses and individuals with guidance from African Internet Agencies; and in doing so to set up the structures and modalities for the implementation of the dotAfrica (.Africa) project. DCA's persistent interference in this process is likely to have substantive political, economic and social repercussions in Africa.

3. Confusing Similarity

- DCA's applied for string (.Africa) is identical to the dotAfrica (.Africa) geographic application as officially endorsed by the AUC. Should DCA's application be allowed to proceed, it is likely to deceive and/or confuse the public into believing that the AUC is associated with, or endorses their application, which is clearly not the case.
- In particular, it is contended that the amended DCA's .Africa application does not sufficiently differentiate itself from the AUC's endorsed dotAfrica (.Africa) geographic application and will therefore confuse and deceive the public.

Possible Remediation steps for Applicant – This will be posted publicly:

GAC Member(s) to identify possible remediation steps to be taken by the applicant

- The applicant should withdraw the application based on the information provided above.
- The applicant should engage in a discussion with the AUC to agree on how the applicant's experience in the Internet field can be utilized to further benefit the African continent in ways that will not conflict with positions taken by the African Governments.

Further Notes from GAC Member(s) (Optional) – This will be posted publicly:

GAC Early Warning – Submittal Africa-BJ-42560

INFORMATION FOR APPLICANTS

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Instructions if you receive the Early Warning

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Asking questions about your GAC Early Warning

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Continuing with your application

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In the absence of a response, ICANN will continue to process the application as submitted.

Withdrawing your application

If you choose to withdraw your application within the 21-day window to be eligible for a refund of 80% of the evaluation fee (USD 148,000), please follow the withdrawal process published at <http://newgtlds.icann.org/en/applicants/customer-service/withdrawal-refund>. Note that an application can still be withdrawn after the 21-day time period; however, the available refund amount is reduced. See section 1.5 of the Applicant Guidebook.

For questions please contact: gacearlywarning@gac.icann.org

GAC Early Warning – Submittal Africa-BJ-42560

Applicant Response:

GAC Early Warning – Submittal Africa-BF-42560

Application ID:	Ref# 1-1165-42560
Entity/Applicant Name:	DotConnectAfrica (DCA)
String:	.Africa
Early Warning Issue Date:	20 November 2012

Early Warning Description – This will be posted publicly:**GAC Member(s) to indicate a description of the Early Warning being filed**

The Government of **BURKINA FASO** wishes to express objection to the application submitted by DotConnectAfrica (DCA) for the .Africa geographic Top Level Domain.

The African Union Commission (AUC) is a Union of 54 (fifty four) African states and [has the mandate](#) of African governments for "establishment of dot Africa as a continental Top-Level Domain for use by organizations, businesses and individuals with guidance from African Internet Agencies" and "set up the structure and modalities for the implementation of the dotAfrica project" as provided for in the [2010 Abuja Declaration](#). In keeping with this mandate and following an open and transparent Request for Proposal process, UniForum SA, trading as the ZA Central Registry, was appointed the registry operator to manage and administer the dotAfrica gTLD on behalf of the African Community and for the benefit of the African region.

The DotConnectAfrica application as revised,

- Does not meet the requirements concerning geographic names as described in the new gTLD Applicant Guidebook, since it does not satisfy the required minimum support of concerned (African) governments;
- Constitutes an unwarranted intrusion and interference on the African Union Commission's (AUC) mandate from African governments to establish the structures and modalities for the Implementation of the dotAfrica (.Africa) project; and
- Is identical to the dotAfrica (.Africa) application officially endorsed by the African Union Commission (AUC) and the 39 individual African governments who have submitted letters of support per the Applicants' Guide Book (**Ref # 1-1243-89583**).

Reason/Rationale for the Warning – This will be posted publicly:

GAC Early Warning – Submittal Africa-BF-42560

GAC Member(s) to indicate the reason and rationale for the Early Warning being filed.

The African Union (AU) and several African countries have supported and endorsed the application by UniForum (**Ref # 1-1243-89583**), which was selected through a transparent process conducted by the African Union Commission, as directed by the AU CITMC (Communications and Information Technology Ministerial Conference). The African Union has taken steps to ensure that UniForum will operate .Africa for the public good of the people of Africa, and will put in place sufficient checks and balances for the protection of interests and rights of African governments and the pan-African community.

The Government of Egypt therefore hereby records its objection to the DotConnectAfrica application which is competing with the UniForum application that has the support and endorsement of the African Union and an overwhelming number of African governments.

1. DCA's Application lacks the requisite Government Support

- Paragraph 2.2.1.4.2 of the Applicants' Guidebook prescribes that certain applied-for-strings may qualify as "Geographic Names" and must therefore be accompanied by documentation of support or non-objection from the relevant governments or public authorities. In particular, the guidebook requires at least 60% of the relevant national governments in a region to provide documentation in support of new applications for geographic strings and there must be no more than one written statement of objection.
- Africa is a clearly designated geographic region as defined in the UNESCO "Composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings" list. In this regard the designation of the official AUC endorsed dotAfrica (.Africa) TLD string application as a geographic name is therefore technically and procedurally correct. The "geographic evaluation process" that this application is subject to, provides sufficient checks and balances for the protection of interests and rights of African governments and the pan-African community.
- The issue as to whether DCA's application for the .dotAfrica string (**1-1165-42560**) will constitute a geographic name as outlined in the Applicant's Guidebook is uncertain, notwithstanding the fact that the applicant itself has designated the application as a "geographic name".
- According to the Applicant's Guidebook (section 2-18) "*Strings that include but do not match a Geographic Name will not be considered geographic names as defined in section 2.2.1.4.2 and therefore will not require documentation of government support in the evaluation process*", which used to be the case of DCA's application before being amended. Now, after amendment, it is identical to the AUC-endorsed application and must be regarded as a geographic name for purposes of evaluation. Consequently, it must be subject to the criteria and rules applicable to the evaluation of geographic names, including government support.
- In contrast to the DCA application, the AUC's officially endorsed dotAfrica (.Africa) geographic application (**1-1243-89583**) has the support of over 39 (thirty nine) individual national governments in Africa, which exceeds the minimum governmental support prescribed by ICANN for new geographic strings.

2. Unwarranted Interference and Intrusion

- DCA's application constitutes an unwarranted intrusion and interference with the mandate given to the AUC by African Head of States and African Ministers responsible for Communication and

GAC Early Warning – Submittal Africa-BF-42560

Information Technologies. In this regard the AUC has been mandated to establish dotAfrica (.Africa) as a continental Top-Level Domain for use by organisations, businesses and individuals with guidance from African Internet Agencies; and in doing so to set up the structures and modalities for the implementation of the dotAfrica (.Africa) project. DCA's persistent interference in this process is likely to have substantive political, economic and social repercussions in Africa.

3. Confusing Similarity

- DCA's applied for string (.Africa) is identical to the dotAfrica (.Africa) geographic application as officially endorsed by the AUC. Should DCA's application be allowed to proceed, it is likely to deceive and/or confuse the public into believing that the AUC is associated with, or endorses their application, which is clearly not the case.
- In particular, it is contended that the amended DCA's .Africa application does not sufficiently differentiate itself from the AUC's endorsed dotAfrica (.Africa) geographic application and will therefore confuse and deceive the public.

Possible Remediation steps for Applicant – This will be posted publicly:

GAC Member(s) to identify possible remediation steps to be taken by the applicant

- The applicant should withdraw the application based on the information provided above.
- The applicant should engage in a discussion with the AUC to agree on how the applicant's experience in the Internet field can be utilized to further benefit the African continent in ways that will not conflict with positions taken by the African Governments.

Further Notes from GAC Member(s) (Optional) – This will be posted publicly:

GAC Early Warning – Submittal Africa-BF-42560

INFORMATION FOR APPLICANTS

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GAC Early Warning – Submittal Africa-BF-42560

Applicant Response:

GAC Early Warning – Submittal Africa-CM-42560

Application ID:	Ref# 1-1165-42560
Entity/Applicant Name:	DotConnectAfrica (DCA)
String:	.Africa
Early Warning Issue Date:	20 November 2012

Early Warning Description – This will be posted publicly:**GAC Member(s) to indicate a description of the Early Warning being filed**

The Government of Cameroon wishes to express objection to the application submitted by DotConnectAfrica (DCA) for the .Africa geographic Top Level Domain.

The African Union Commission (AUC) is a Union of 54 (fifty four) African states and [has the mandate](#) of African governments for "establishment of dot Africa as a continental Top-Level Domain for use by organizations, businesses and individuals with guidance from African Internet Agencies" and "set up the structure and modalities for the implementation of the dotAfrica project" as provided for in the [2010 Abuja Declaration](#). In keeping with this mandate and following an open and transparent Request for Proposal process, UniForum SA, trading as the ZA Central Registry, was appointed the registry operator to manage and administer the dotAfrica gTLD on behalf of the African Community and for the benefit of the African region.

The DotConnectAfrica application as revised,

- Does not meet the requirements concerning geographic names as described in the new gTLD Applicant Guidebook, since it does not satisfy the required minimum support of concerned (African) governments;
- Constitutes an unwarranted intrusion and interference on the African Union Commission's (AUC) mandate from African governments to establish the structures and modalities for the Implementation of the dotAfrica (.Africa) project; and
- Is identical to the dotAfrica (.Africa) application officially endorsed by the African Union Commission (AUC) and the 39 individual African governments who have submitted letters of support per the Applicants' Guide Book (Ref # 1-1243-89583).

Reason/Rationale for the Warning – This will be posted publicly:

GAC Early Warning – Submittal Africa-CM-42560

GAC Member(s) to indicate the reason and rationale for the Early Warning being filed.

The African Union (AU) and several African countries have supported and endorsed the application by UniForum (**Ref # 1-1243-89583**), which was selected through a transparent process conducted by the African Union Commission, as directed by the AU CITMC (Communications and Information Technology Ministerial Conference). The African Union has taken steps to ensure that UniForum will operate .Africa for the public good of the people of Africa, and will put in place sufficient checks and balances for the protection of interests and rights of African governments and the pan-African community.

The Government of Egypt therefore hereby records its objection to the DotConnectAfrica application which is competing with the UniForum application that has the support and endorsement of the African Union and an overwhelming number of African governments.

1. DCA's Application lacks the requisite Government Support

- Paragraph 2.2.1.4.2 of the Applicants' Guidebook prescribes that certain applied-for-strings may qualify as "Geographic Names" and must therefore be accompanied by documentation of support or non-objection from the relevant governments or public authorities. In particular, the guidebook requires at least 60% of the relevant national governments in a region to provide documentation in support of new applications for geographic strings and there must be no more than one written statement of objection.
- Africa is a clearly designated geographic region as defined in the UNESCO "Composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings" list. In this regard the designation of the official AUC endorsed dotAfrica (.Africa) TLD string application as a geographic name is therefore technically and procedurally correct. The "geographic evaluation process" that this application is subject to, provides sufficient checks and balances for the protection of interests and rights of African governments and the pan-African community.
- The issue as to whether DCA's application for the .dotAfrica string (**1-1165-42560**) will constitute a geographic name as outlined in the Applicant's Guidebook is uncertain, notwithstanding the fact that the applicant itself has designated the application as a "geographic name".
- According to the Applicant's Guidebook (section 2-18) "*Strings that include but do not match a Geographic Name will not be considered geographic names as defined in section 2.2.1.4.2 and therefore will not require documentation of government support in the evaluation process*", which used to be the case of DCA's application before being amended. Now, after amendment, it is identical to the AUC-endorsed application and must be regarded as a geographic name for purposes of evaluation. Consequently, it must be subject to the criteria and rules applicable to the evaluation of geographic names, including government support.
- In contrast to the DCA application, the AUC's officially endorsed dotAfrica (.Africa) geographic application (**1-1243-89583**) has the support of over 39 (thirty nine) individual national governments in Africa, which exceeds the minimum governmental support prescribed by ICANN for new geographic strings.

2. Unwarranted Interference and Intrusion

- DCA's application constitutes an unwarranted intrusion and interference with the mandate given to the AUC by African Head of States and African Ministers responsible for Communication and

GAC Early Warning – Submittal Africa-CM-42560

Information Technologies. In this regard the AUC has been mandated to establish dotAfrica (.Africa) as a continental Top-Level Domain for use by organisations, businesses and individuals with guidance from African Internet Agencies; and in doing so to set up the structures and modalities for the implementation of the dotAfrica (.Africa) project. DCA's persistent interference in this process is likely to have substantive political, economic and social repercussions in Africa.

3. Confusing Similarity

- DCA's applied for string (.Africa) is identical to the dotAfrica (.Africa) geographic application as officially endorsed by the AUC. Should DCA's application be allowed to proceed, it is likely to deceive and/or confuse the public into believing that the AUC is associated with, or endorses their application, which is clearly not the case.
- In particular, it is contended that the amended DCA's .Africa application does not sufficiently differentiate itself from the AUC's endorsed dotAfrica (.Africa) geographic application and will therefore confuse and deceive the public.

Possible Remediation steps for Applicant – This will be posted publicly:

GAC Member(s) to identify possible remediation steps to be taken by the applicant

- The applicant should withdraw the application based on the information provided above.
- The applicant should engage in a discussion with the AUC to agree on how the applicant's experience in the Internet field can be utilized to further benefit the African continent in ways that will not conflict with positions taken by the African Governments.

Further Notes from GAC Member(s) (Optional) – This will be posted publicly:

GAC Early Warning – Submittal Africa-CM-42560

INFORMATION FOR APPLICANTS

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For questions please contact: gacearlywarning@gac.icann.org

GAC Early Warning – Submittal Africa-CM-42560

Applicant Response:

GAC Early Warning – Submittal Africa-KM-42560

Application ID:	Ref# 1-1165-42560
Entity/Applicant Name:	DotConnectAfrica (DCA)
String:	.Africa
Early Warning Issue Date:	20 November 2012

Early Warning Description – This will be posted publicly:**GAC Member(s) to indicate a description of the Early Warning being filed**

The Government of Comoros wishes to express objection to the application submitted by DotConnectAfrica (DCA) for the .Africa geographic Top Level Domain.

The African Union Commission (AUC) is a Union of 54 (fifty four) African states and [has the mandate](#) of African governments for "establishment of dot Africa as a continental Top-Level Domain for use by organizations, businesses and individuals with guidance from African Internet Agencies" and "set up the structure and modalities for the implementation of the dotAfrica project" as provided for in the [2010 Abuja Declaration](#). In keeping with this mandate and following an open and transparent Request for Proposal process, UniForum SA, trading as the ZA Central Registry, was appointed the registry operator to manage and administer the dotAfrica gTLD on behalf of the African Community and for the benefit of the African region.

The DotConnectAfrica application as revised,

- Does not meet the requirements concerning geographic names as described in the new gTLD Applicant Guidebook, since it does not satisfy the required minimum support of concerned (African) governments;
- Constitutes an unwarranted intrusion and interference on the African Union Commission's (AUC) mandate from African governments to establish the structures and modalities for the Implementation of the dotAfrica (.Africa) project; and
- Is identical to the dotAfrica (.Africa) application officially endorsed by the African Union Commission (AUC) and the 39 individual African governments who have submitted letters of support per the Applicants' Guide Book (Ref # 1-1243-89583).

Reason/Rationale for the Warning – This will be posted publicly:

GAC Early Warning – Submittal Africa-KM-42560

GAC Member(s) to indicate the reason and rationale for the Early Warning being filed.

The African Union (AU) and several African countries have supported and endorsed the application by UniForum (**Ref # 1-1243-89583**), which was selected through a transparent process conducted by the African Union Commission, as directed by the AU CITMC (Communications and Information Technology Ministerial Conference). The African Union has taken steps to ensure that UniForum will operate .Africa for the public good of the people of Africa, and will put in place sufficient checks and balances for the protection of interests and rights of African governments and the pan-African community.

The Government of Comoros therefore hereby records its objection to the DotConnectAfrica application which is competing with the UniForum application that has the support and endorsement of the African Union and an overwhelming number of African governments.

1. DCA's Application lacks the requisite Government Support

- Paragraph 2.2.1.4.2 of the Applicants' Guidebook prescribes that certain applied-for-strings may qualify as "Geographic Names" and must therefore be accompanied by documentation of support or non-objection from the relevant governments or public authorities. In particular, the guidebook requires at least 60% of the relevant national governments in a region to provide documentation in support of new applications for geographic strings and there must be no more than one written statement of objection.
- Africa is a clearly designated geographic region as defined in the UNESCO "Composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings" list. In this regard the designation of the official AUC endorsed dotAfrica (.Africa) TLD string application as a geographic name is therefore technically and procedurally correct. The "geographic evaluation process" that this application is subject to, provides sufficient checks and balances for the protection of interests and rights of African governments and the pan-African community.
- The issue as to whether DCA's application for the .dotAfrica string (**1-1165-42560**) will constitute a geographic name as outlined in the Applicant's Guidebook is uncertain, notwithstanding the fact that the applicant itself has designated the application as a "geographic name".
- According to the Applicant's Guidebook (section 2-18) "*Strings that include but do not match a Geographic Name will not be considered geographic names as defined in section 2.2.1.4.2 and therefore will not require documentation of government support in the evaluation process*", which used to be the case of DCA's application before being amended. Now, after amendment, it is identical to the AUC-endorsed application and must be regarded as a geographic name for purposes of evaluation. Consequently, it must be subject to the criteria and rules applicable to the evaluation of geographic names, including government support.
- In contrast to the DCA application, the AUC's officially endorsed dotAfrica (.Africa) geographic application (**1-1243-89583**) has the support of over 39 (thirty nine) individual national governments in Africa, which exceeds the minimum governmental support prescribed by ICANN for new geographic strings.

2. Unwarranted Interference and Intrusion

- DCA's application constitutes an unwarranted intrusion and interference with the mandate

GAC Early Warning – Submittal Africa-KM-42560

given to the AUC by African Head of States and African Ministers responsible for Communication and Information Technologies. In this regard the AUC has been mandated to establish dotAfrica (.Africa) as a continental Top-Level Domain for use by organisations, businesses and individuals with guidance from African Internet Agencies; and in doing so to set up the structures and modalities for the implementation of the dotAfrica (.Africa) project. DCA's persistent interference in this process is likely to have substantive political, economic and social repercussions in Africa.

3. Confusing Similarity

- DCA's applied for string (.Africa) is identical to the dotAfrica (.Africa) geographic application as officially endorsed by the AUC. Should DCA's application be allowed to proceed, it is likely to deceive and/or confuse the public into believing that the AUC is associated with, or endorses their application, which is clearly not the case.
- In particular, it is contended that the amended DCA's .Africa application does not sufficiently differentiate itself from the AUC's endorsed dotAfrica (.Africa) geographic application and will therefore confuse and deceive the public.

Possible Remediation steps for Applicant – This will be posted publicly:

GAC Member(s) to identify possible remediation steps to be taken by the applicant

- The applicant should withdraw the application based on the information provided above.
- The applicant should engage in a discussion with the AUC to agree on how the applicant's experience in the Internet field can be utilized to further benefit the African continent in ways that will not conflict with positions taken by the African Governments.

Further Notes from GAC Member(s) (Optional) – This will be posted publicly:

GAC Early Warning – Submittal Africa-KM-42560

INFORMATION FOR APPLICANTS

About GAC Early Warning

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Instructions if you receive the Early Warning

ICANN strongly encourages you work with relevant parties as soon as possible to address the concerns voiced in the GAC Early Warning.

Asking questions about your GAC Early Warning

If you have questions or need clarification about your GAC Early Warning, please contact gacearlywarning@gac.icann.org. As highlighted above, ICANN strongly encourages you to contact gacearlywarning@gac.icann.org as soon as practicable regarding the issues identified in the Early Warning.

Continuing with your application

If you choose to continue with the application, then the “Applicant’s Response” section below should be completed. In this section, you should notify the GAC of intended actions, including the expected completion date. This completed form should then be sent to gacearlywarning@gac.icann.org. If your remediation steps involve submitting requests for changes to your application, see the change request process at <http://newgtlds.icann.org/en/applicants/customer-service/change-requests>.

In the absence of a response, ICANN will continue to process the application as submitted.

Withdrawing your application

If you choose to withdraw your application within the 21-day window to be eligible for a refund of 80% of the evaluation fee (USD 148,000), please follow the withdrawal process published at <http://newgtlds.icann.org/en/applicants/customer-service/withdrawal-refund>. Note that an application can still be withdrawn after the 21-day time period; however, the available refund amount is reduced. See section 1.5 of the Applicant Guidebook.

For questions please contact: gacearlywarning@gac.icann.org

GAC Early Warning – Submittal Africa-KM-42560

Applicant Response:

GAC Early Warning – Submittal Africa-CD-42560

Application ID:	Ref# 1-1165-42560
Entity/Applicant Name:	DotConnectAfrica (DCA)
String:	.Africa
Early Warning Issue Date:	20 November 2012

Early Warning Description – This will be posted publicly:**GAC Member(s) to indicate a description of the Early Warning being filed**

The Government of DR of CONGO wishes to express objection to the application submitted by DotConnectAfrica (DCA) for the .Africa geographic Top Level Domain.

The African Union Commission (AUC) is a Union of 54 (fifty four) African states and [has the mandate](#) of African governments for "establishment of dot Africa as a continental Top-Level Domain for use by organizations, businesses and individuals with guidance from African Internet Agencies" and "set up the structure and modalities for the implementation of the dotAfrica project" as provided for in the [2010 Abuja Declaration](#). In keeping with this mandate and following an open and transparent Request for Proposal process, UniForum SA, trading as the ZA Central Registry, was appointed the registry operator to manage and administer the dotAfrica gTLD on behalf of the African Community and for the benefit of the African region.

The DotConnectAfrica application as revised,

- Does not meet the requirements concerning geographic names as described in the new gTLD Applicant Guidebook, since it does not satisfy the required minimum support of concerned (African) governments;
- Constitutes an unwarranted intrusion and interference on the African Union Commission's (AUC) mandate from African governments to establish the structures and modalities for the Implementation of the dotAfrica (.Africa) project; and

Is identical to the dotAfrica (.Africa) application officially endorsed by the African Union Commission (AUC) and the 39 individual African governments who have submitted letters of support per the Applicants' Guide Book (**Ref # 1-1243-89583**).

Reason/Rationale for the Warning – This will be posted publicly:

GAC Early Warning – Submittal Africa-CD-42560

GAC Member(s) to indicate the reason and rationale for the Early Warning being filed.

The African Union (AU) and several African countries have supported and endorsed the application by UniForum (**Ref # 1-1243-89583**), which was selected through a transparent process conducted by the African Union Commission, as directed by the AU CITMC (Communications and Information Technology Ministerial Conference). The African Union has taken steps to ensure that UniForum will operate .Africa for the public good of the people of Africa, and will put in place sufficient checks and balances for the protection of interests and rights of African governments and the pan-African community.

The Government of DR of CONGO therefore hereby records its objection to the DotConnectAfrica application which is competing with the UniForum application that has the support and endorsement of the African Union and an overwhelming number of African governments.

1. DCA's Application lacks the requisite Government Support

- Paragraph 2.2.1.4.2 of the Applicants' Guidebook prescribes that certain applied-for-strings may qualify as "Geographic Names" and must therefore be accompanied by documentation of support or non-objection from the relevant governments or public authorities. In particular, the guidebook requires at least 60% of the relevant national governments in a region to provide documentation in support of new applications for geographic strings and there must be no more than one written statement of objection.
- Africa is a clearly designated geographic region as defined in the UNESCO "Composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings" list. In this regard the designation of the official AUC endorsed dotAfrica (.Africa) TLD string application as a geographic name is therefore technically and procedurally correct. The "geographic evaluation process" that this application is subject to, provides sufficient checks and balances for the protection of interests and rights of African governments and the pan-African community.
- The issue as to whether DCA's application for the .dotAfrica string (**1-1165-42560**) will constitute a geographic name as outlined in the Applicant's Guidebook is uncertain, notwithstanding the fact that the applicant itself has designated the application as a "geographic name".
- According to the Applicant's Guidebook (section 2-18) "*Strings that include but do not match a Geographic Name will not be considered geographic names as defined in section 2.2.1.4.2 and therefore will not require documentation of government support in the evaluation process*", which used to be the case of DCA's application before being amended. Now, after amendment, it is identical to the AUC-endorsed application and must be regarded as a geographic name for purposes of evaluation. Consequently, it must be subject to the criteria and rules applicable to the evaluation of geographic names, including government support.
- In contrast to the DCA application, the AUC's officially endorsed dotAfrica (.Africa) geographic application (**1-1243-89583**) has the support of over 39 (thirty nine) individual national governments in Africa, which exceeds the minimum governmental support prescribed by ICANN for new geographic strings.

2. Unwarranted Interference and Intrusion

- DCA's application constitutes an unwarranted intrusion and interference with the mandate given to the AUC by African Head of States and African Ministers responsible for

GAC Early Warning – Submittal Africa-CD-42560

Communication and Information Technologies. In this regard the AUC has been mandated to establish dotAfrica (.Africa) as a continental Top-Level Domain for use by organisations, businesses and individuals with guidance from African Internet Agencies; and in doing so to set up the structures and modalities for the implementation of the dotAfrica (.Africa) project. DCA's persistent interference in this process is likely to have substantive political, economic and social repercussions in Africa.

3. Confusing Similarity

- DCA's applied for string (.Africa) is identical to the dotAfrica (.Africa) geographic application as officially endorsed by the AUC. Should DCA's application be allowed to proceed, it is likely to deceive and/or confuse the public into believing that the AUC is associated with, or endorses their application, which is clearly not the case.

In particular, it is contended that the amended DCA's .Africa application does not sufficiently differentiate itself from the AUC's endorsed dotAfrica (.Africa) geographic application and will therefore confuse and deceive the public.

Possible Remediation steps for Applicant – This will be posted publicly:

GAC Member(s) to identify possible remediation steps to be taken by the applicant

- The applicant for the string tries to address the concerns raised by the Early Warning
- The applicant should withdraw their application based on the information provided above

Further Notes from GAC Member(s) (Optional) – This will be posted publicly:

GAC Early Warning – Submittal Africa-CD-42560

INFORMATION FOR APPLICANTS

About GAC Early Warning

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Instructions if you receive the Early Warning

ICANN strongly encourages you work with relevant parties as soon as possible to address the concerns voiced in the GAC Early Warning.

Asking questions about your GAC Early Warning

If you have questions or need clarification about your GAC Early Warning, please contact gacearlywarning@gac.icann.org. As highlighted above, ICANN strongly encourages you to contact gacearlywarning@gac.icann.org as soon as practicable regarding the issues identified in the Early Warning.

Continuing with your application

If you choose to continue with the application, then the “Applicant’s Response” section below should be completed. In this section, you should notify the GAC of intended actions, including the expected completion date. This completed form should then be sent to gacearlywarning@gac.icann.org. If your remediation steps involve submitting requests for changes to your application, see the change request process at <http://newgtlds.icann.org/en/applicants/customer-service/change-requests>.

In the absence of a response, ICANN will continue to process the application as submitted.

GAC Early Warning – Submittal Africa-CD-42560

Withdrawing your application

If you choose to withdraw your application within the 21-day window to be eligible for a refund of 80% of the evaluation fee (USD 148,000), please follow the withdrawal process published at <http://newgtlds.icann.org/en/applicants/customer-service/withdrawal-refund>. Note that an application can still be withdrawn after the 21-day time period; however, the available refund amount is reduced. See section 1.5 of the Applicant Guidebook.

For questions please contact: gacearlywarning@gac.icann.org

Applicant Response:

GAC Early Warning – Submittal – Africa-EG-1-42560

Application ID:	Ref# 1-1165-42560
Entity/Applicant Name:	DotConnectAfrica (DCA)
String:	.Africa
Early Warning Issue Date:	20 November 2012

Early Warning Description – This will be posted publicly:**GAC Member(s) to indicate a description of the Early Warning being filed**

The Government of Egypt wishes to express objection to the application submitted by DotConnectAfrica (DCA) for the .Africa geographic Top Level Domain.

The African Union Commission (AUC) is a Union of 54 (fifty four) African states and [has the mandate](#) of African governments for "establishment of dot Africa as a continental Top-Level Domain for use by organizations, businesses and individuals with guidance from African Internet Agencies" and "set up the structure and modalities for the implementation of the dotAfrica project" as provided for in the [2010 Abuja Declaration](#). In keeping with this mandate and following an open and transparent Request for Proposal process, UniForum SA, trading as the ZA Central Registry, was appointed the registry operator to manage and administer the dotAfrica gTLD on behalf of the African Community and for the benefit of the African region.

The DotConnectAfrica application as revised,

- Does not meet the requirements concerning geographic names as described in the new gTLD Applicant Guidebook, since it does not satisfy the required minimum support of concerned (African) governments;
- Constitutes an unwarranted intrusion and interference on the African Union Commission's (AUC) mandate from African governments to establish the structures and modalities for the Implementation of the dotAfrica (.Africa) project; and
- Is identical to the dotAfrica (.Africa) application officially endorsed by the African Union Commission (AUC) and the 39 individual African governments who have submitted letters of support per the Applicants' Guide Book (**Ref # 1-1243-89583**).

Reason/Rationale for the Warning – This will be posted publicly:

GAC Early Warning – Submittal – Africa-EG-1-42560

GAC Member(s) to indicate the reason and rationale for the Early Warning being filed.

The African Union (AU) and several African countries have supported and endorsed the application by UniForum (**Ref # 1-1243-89583**), which was selected through a transparent process conducted by the African Union Commission, as directed by the AU CITMC (Communications and Information Technology Ministerial Conference). The African Union has taken steps to ensure that UniForum will operate .Africa for the public good of the people of Africa, and will put in place sufficient checks and balances for the protection of interests and rights of African governments and the pan-African community.

The Government of Egypt therefore hereby records its objection to the DotConnectAfrica application which is competing with the UniForum application that has the support and endorsement of the African Union and an overwhelming number of African governments.

1. DCA's Application lacks the requisite Government Support

- Paragraph 2.2.1.4.2 of the Applicants' Guidebook prescribes that certain applied-for-strings may qualify as "Geographic Names" and must therefore be accompanied by documentation of support or non-objection from the relevant governments or public authorities. In particular, the guidebook requires at least 60% of the relevant national governments in a region to provide documentation in support of new applications for geographic strings and there must be no more than one written statement of objection.
- Africa is a clearly designated geographic region as defined in the UNESCO "Composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings" list. In this regard the designation of the official AUC endorsed dotAfrica (.Africa) TLD string application as a geographic name is therefore technically and procedurally correct. The "geographic evaluation process" that this application is subject to, provides sufficient checks and balances for the protection of interests and rights of African governments and the pan-African community.
- The issue as to whether DCA's application for the .dotAfrica string (**1-1165-42560**) will constitute a geographic name as outlined in the Applicant's Guidebook is uncertain, notwithstanding the fact that the applicant itself has designated the application as a "geographic name".
- According to the Applicant's Guidebook (section 2-18) "*Strings that include but do not match a Geographic Name will not be considered geographic names as defined in section 2.2.1.4.2 and therefore will not require documentation of government support in the evaluation process*", which used to be the case of DCA's application before being amended. Now, after amendment, it is identical to the AUC-endorsed application and must be regarded as a geographic name for purposes of evaluation. Consequently, it must be subject to the criteria and rules applicable to the evaluation of geographic names, including government support.
- In contrast to the DCA application, the AUC's officially endorsed dotAfrica (.Africa) geographic application (**1-1243-89583**) has the support of over 39 (thirty nine) individual national governments in Africa, which exceeds the minimum governmental support prescribed by ICANN for new geographic strings.

2. Unwarranted Interference and Intrusion

- DCA's application constitutes an unwarranted intrusion and interference with the mandate

GAC Early Warning – Submittal – Africa-EG-1-42560

given to the AUC by African Head of States and African Ministers responsible for Communication and Information Technologies. In this regard the AUC has been mandated to establish dotAfrica (.Africa) as a continental Top-Level Domain for use by organisations, businesses and individuals with guidance from African Internet Agencies; and in doing so to set up the structures and modalities for the implementation of the dotAfrica (.Africa) project. DCA's persistent interference in this process is likely to have substantive political, economic and social repercussions in Africa.

3. Confusing Similarity

- DCA's applied for string (.Africa) is identical to the dotAfrica (.Africa) geographic application as officially endorsed by the AUC. Should DCA's application be allowed to proceed, it is likely to deceive and/or confuse the public into believing that the AUC is associated with, or endorses their application, which is clearly not the case.
- In particular, it is contended that the amended DCA's .Africa application does not sufficiently differentiate itself from the AUC's endorsed dotAfrica (.Africa) geographic application and will therefore confuse and deceive the public.

Possible Remediation steps for Applicant – This will be posted publicly:

GAC Member(s) to identify possible remediation steps to be taken by the applicant

- The applicant should withdraw the application based on the information provided above.
- The applicant should engage in a discussion with the AUC to agree on how the applicant's experience in the Internet field can be utilized to further benefit the African continent in ways that will not conflict with positions taken by the African Governments.

Further Notes from GAC Member(s) (Optional) – This will be posted publicly:

GAC Early Warning – Submittal Africa-GA-42560

Application ID:	(Ref# 1-1165-42560) 1-1165-42560
Entity/Applicant Name:	Dot Connect Africa (DCA)
String:	.Africa
Early Warning Issue Date:	20 November 2012

Early Warning Description - This will be posted publicly:

The Government of the Republic of Gabon wishes to express its objection to the application submitted by Dot Connect Africa (DCA) for the gTLD .Africa.

The DotConnectAfrica application as revised, does not meet the requirements for support from African governments as described in the new gTLD Applicant Guidebook.

This domain should be managed by the African Union Commission (AUC) as a geographic gTLD for the benefit of the Africa region as the administrative organ of the African Union, a union of all but one African government. The African Union Commission (AUC) has the mandate of African governments to ‘establish dotAfrica as a continental To-Level Domain for use by African stakeholders including organisations, businesses, individuals and others with guidance from African Internet Agencies’ and ‘to set up the structures and modalities for the implementation of dotAfrica project’ as provided for in the 2010 Abuja Declaration.

The DotConnectAfrica .Africa application (1-1165-42560) fails to meet the minimum requirements prescribed by ICANN in the gTLD Applicant Guidebook concerning geographic names. It is a geographic string application that does not have the requisite minimum support from African governments.

GAC Early Warning – Submittal Africa-GA-42560

Reason/Rationale for the Warning - This will be posted publicly:

GAC Member(s) to indicate the reason and rationale for the Early Warning being filed.

1. DCA’s Application lacks the requisite Government Support

- a. Paragraph 2.2.1.4.2 (section 2-16) of the Applicants’ Guidebook prescribes that certain applied-for-strings may qualify as “Geographic Names” and must therefore be accompanied by documentation of support or non-objection from the relevant governments or public authorities. In particular, the guidebook requires at least 60% of the relevant national governments in a region to provide documentation in support of new applications for geographic strings and there must be no more than one written statement of objection.
- b. Africa is a clearly designated geographic region as defined in the UNESCO “Composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings” list.
- c. Being a Union of 54 (fifty four) African states and specifically being mandated by these states to “Set up the structure and modalities for the Implementation of the dotAfrica (.Africa) project” the AUC is in an authoritative position to declare African government support or opposition to any “Africa” geographic string application.

Supporting GAC Members (Optional):

I agree to include the supporting GAC members in the publication of this Early Warning

Possible Remediation steps for Applicant - This will be posted publicly:

- GAC Member(s) to identify possible remediation steps to be taken by the applicant
- The applicant for the string tries to address the concerns raised by the Early Warning
 - The applicant should withdraw their application based on the information provided above
 - The applicant should apply for another string.
 - The applicant should engage in a discussion with the AUC to agree on how her experience in the Internet field can be utilised to benefit the African continent in ways that will not conflict with positions taken by the African Governments.

GAC Early Warning – Submittal Africa-GA-42560

- The applicant should withdraw their application based on the information provided above.

Further Notes from GAC Member(s) (Optional) - This will be posted publicly:

INFORMATION FOR APPLICANTS

About GAC Early Warning

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Instructions if you receive the Early Warning

ICANN strongly encourages you work with relevant parties as soon as possible to address the concerns voiced in the GAC Early Warning.

Asking questions about your GAC Early Warning

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Continuing with your application

If you choose to continue with the application, then the “Applicant’s Response” section below should be completed. In this section, you should notify the GAC of intended actions, including the expected completion date. This completed form should then be sent to gacearlywarning@gac.icann.org. If your remediation steps involve submitting requests for changes to your application, see the change request process at <http://newgtlds.icann.org/en/applicants/customer-service/change-requests>.

In the absence of a response, ICANN will continue to process the application as submitted.

GAC Early Warning – Submittal Africa-GA-42560

Withdrawing your application

If you choose to withdraw your application within the 21-day window to be eligible for a refund of 80% of the evaluation fee (USD 148,000), please follow the withdrawal process published at <http://newgtlds.icann.org/en/applicants/customer-service/withdrawal-refund>. Note that an application can still be withdrawn after the 21-day time period; however, the available refund amount is reduced. See section 1.5 of the Applicant Guidebook.

For questions please contact: gacearlywarning@gac.icann.org

Applicant Response:

*In case of reply the **number** and
date of this letter should be **quoted***

Tel No: +233-(0)30-266-6465

Fax No: +233-(0)30-266-7114



Republic of Ghana

#3556
MINISTRY OF COMMUNICATIONS
P. O. BOX M.38
ACCRA

14 November 2012

My Ref. No:

Your Ref. No:

EARLY WARNING AGAINST DOTCONNECTAFRICA'S (DCA)
APPLICATION FOR (.AFRICA)

The Ministry of Communications presents its compliments to the Commissioner, Infrastructure and Energy of the African Union Commission and conveys support for the AUC's mandate to apply for the DOTAFRICA (.AFRICA) generic top-level domain, and also the appointment of UniForum SA trading as the ZA Central Registry to manage the dot AFRICA domain registry.

In this regard, the Government of the Republic of Ghana wishes to express its objection to the application submitted by Dot Connect Africa (DCA) for the .Africa geographic Top Level Domain.

The enclosed GAC Early Warning Submittal is therefore being submitted outlining the basis of objection.

The Ministry of Communications avails itself of the opportunity to renew to the Commissioner, Infrastructure and Energy of AUC the assurance of its highest consideration.

A handwritten signature in blue ink, appearing to read 'Haruna Iddrisu', written over a large, stylized blue scribble or flourish.

HARUNA IDDRISU (MP)
MINISTER

DR. ELHAM M.A. IBRAHIM (Mrs)
COMMISSIONER
INFRASTRUCTURE AND ENERGY
AFRICAN UNION
P. O. BOX 3243
ADDIS ABABA, ETHIOPIA

Cc: Issah Yahaya, GAC Representative

GAC Early Warning #3557 Submittal _____

Application ID:	1-1165-42560
Entity/Applicant Name:	Dot Connect Africa
String:	dotAfrica
Early Warning Issue Date:	(this box to be filled in by GAC Secretariat only)

Early Warning Description – This will be posted publicly:

The Government of the **Republic of GHANA** wishes to express its objection to the application submitted by Dot Connect Africa (DCA) for the .Africa geographic Top Level Domain.

The African Union Commission (AUC) has the mandate of African governments to “*establish dotAfrica as a continental (geographic) To-Level Domain for use by organizations, businesses and individuals with guidance from African Internet Agencies*” and “*to set up the structures and modalities for the implementation of dotAfrica project*” as provided for in the Abuja Declaration. In keeping with this mandate and following an open and transparent Request for Proposal process, UniForum SA, trading as the ZA Central Registry, was appointed as the registry operator to manage and administer the dotAfrica gTLD on behalf of the African Community for the benefit of the African region.

The Dot Connect Africa (DCA) application fails to meet the minimum requirements prescribed by ICANN in the gTLD Applicant Guidebook concerning geographic names.

- It is a geographic string application that does not have the requisite minimum support from African governments.
- DCA’s application constitutes an unwarranted intrusion and interference on the African Union Commission’s (AUC) mandate from African governments to establish the structures and modalities for the Implementation of the dotAfrica (.Africa) project; and
- Its application does not adequately and substantively differentiate itself from the AUC’s officially endorsed application for the dotAfrica (.Africa) geographic string and as such will likely result in public confusion with ensuing adverse affects on the goodwill and effectiveness of the African TLD space.
- Post-amendment, DCA’s applied for string is identical to the dotAfrica (.Africa) application officially endorsed by the African Union Commission (AUC) and the 39 individual African governments that have submitted letters of support per the Applicants’ Guide Book (Ref # 1-1234-89583).

Reason/Rationale for the Warning – This will be posted publicly:

- **DCA's Application lacks the requisite Government Support**
 - Paragraph 2.2.1.4.2 (section 2-16) of the Applicants' Guidebook prescribes that certain applied-for-strings may qualify as "Geographic Names" and must therefore be accompanied by documentation of support or non-objection from the relevant governments or public authorities. In particular, the guidebook requires at least 60% of the relevant national governments in a region to provide documentation in support of new applications for geographic strings and there must be no more than one written statement of objection.
 - Africa is a clearly designated geographic region as defined in the UNESCO "Composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings" list. In this regard the designation of the official AUC endorsed dotAfrica (.Africa) TLD string application as a geographic name is therefore technically and procedurally correct. The AUC is confident that the "geographic evaluation process" that this application is subject to provides sufficient checks and balances for the protection of interests and rights of African governments and the pan-African community.
 - The issue as to whether DCA's application for the .dotAfrica string (1-1165-42560) will constitute a geographic name as outlined in the Applicant's Guidebook is uncertain, notwithstanding the fact that the applicant itself has designated the application as a "geographic name".
 - According to the Applicant's Guidebook (section 2-17) "Strings that include but do not match a Geographic Name will not be considered geographic names as defined in section 2.2.1.4.2 and therefore will not require documentation of government support in the evaluation process."
 - DCA's amended application is identical to the AUC-endorsed application and must be regarded as a geographic name for purposes of evaluation. It must consequently be subjected to the criteria and rules applicable to the evaluation of geographic names, including government support.
 - In particular we contend that the DCA's amended .Africa application does not sufficiently differentiate it from the AUC's endorsed dotAfrica (.Africa) geographic string application and will therefore confuse the public.
 - Being a Union of 54 (fifty four) African states and specifically being mandated by these states to "*Set up the structure and modalities for the implementation of the dotAfrica (.Africa) project*" the AUC is in an authoritative position to declare African government support or opposition to any "Africa" geographic string application.
 - In contrast to the DCA application, the AUC's officially endorsed dotAfrica (.Africa) geographic application (1-1234-89583) has the support of over 39 (thirty nine) individual national governments in Africa, which exceeds the minimum governmental support prescribed by ICANN for new geographic strings.

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to have substantive political, economic and social repercussions in Africa.

3. Confusing Similarity

- DCA's applied for string (.Africa) is identical to the dotAfrica (.Africa) geographic application as officially endorsed by the AUC. Should DCA's application be allowed to proceed, it is likely to deceive and/or confuse the public into believing that the AUC is associated with, or endorses their application, which we clearly do not.
- In particular, we contend that the amended DCA's .Africa application does not sufficiently differentiate it from the AUC's endorsed dotAfrica (.Africa) geographic application and will therefore confuse and deceive the public.

Possible Remediation steps for Applicant – This will be posted publicly:

Further Notes from GAC Member(s) (Optional) – This will be posted publicly:

GAC Early Warning – Submittal Africa-KE-42560

Application ID:	Ref# 1-1165-42560
Entity/Applicant Name:	DotConnectAfrica (DCA)
String:	.Africa
Early Warning Issue Date:	20 November 2012

Early Warning Description – This will be posted publicly:**GAC Member(s) to indicate a description of the Early Warning being filed**

The Government of The Republic of Kenya wishes to express objection to the application submitted by DotConnectAfrica (DCA) for the .Africa geographic Top Level Domain.

The African Union Commission (AUC) is a Union of 54 (fifty four) African states and [has the mandate](#) of African governments for "establishment of dot Africa as a continental Top-Level Domain for use by organizations, businesses and individuals with guidance from African Internet Agencies" and "set up the structure and modalities for the implementation of the dotAfrica project" as provided for in the [2010 Abuja Declaration](#). In keeping with this mandate and following an open and transparent Request for Proposal process, UniForum SA, trading as the ZA Central Registry, was appointed the registry operator to manage and administer the dotAfrica gTLD on behalf of the African Community and for the benefit of the African region.

The DotConnectAfrica application as revised,

- Does not meet the requirements concerning geographic names as described in the new gTLD Applicant Guidebook, since it does not satisfy the required minimum support of concerned (African) governments;
- Constitutes an unwarranted intrusion and interference on the African Union Commission's (AUC) mandate from African governments to establish the structures and modalities for the Implementation of the dotAfrica (.Africa) project; and
- Is identical to the dotAfrica (.Africa) application officially endorsed by the African Union Commission (AUC) and the 39 individual African governments who have submitted letters of support per the Applicants' Guide Book (**Ref # 1-1243-89583**).

Reason/Rationale for the Warning – This will be posted publicly:

GAC Early Warning – Submittal Africa-KE-42560

GAC Member(s) to indicate the reason and rationale for the Early Warning being filed.

The African Union (AU) and several African countries have supported and endorsed the application by UniForum (**Ref # 1-1243-89583**), which was selected through a transparent process conducted by the African Union Commission, as directed by the AU CITMC (Communications and Information Technology Ministerial Conference). The African Union has taken steps to ensure that UniForum will operate .Africa for the public good of the people of Africa, and will put in place sufficient checks and balances for the protection of interests and rights of African governments and the pan-African community.

The Government of Kenya therefore hereby records its objection to the DotConnectAfrica application which is competing with the UniForum application that has the support and endorsement of the African Union and an overwhelming number of African governments.

1. DCA's Application lacks the requisite Government Support

- Paragraph 2.2.1.4.2 of the Applicants' Guidebook prescribes that certain applied-for-strings may qualify as "Geographic Names" and must therefore be accompanied by documentation of support or non-objection from the relevant governments or public authorities. In particular, the guidebook requires at least 60% of the relevant national governments in a region to provide documentation in support of new applications for geographic strings and there must be no more than one written statement of objection.
- Africa is a clearly designated geographic region as defined in the UNESCO "Composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings" list. In this regard the designation of the official AUC endorsed dotAfrica (.Africa) TLD string application as a geographic name is therefore technically and procedurally correct. The "geographic evaluation process" that this application is subject to, provides sufficient checks and balances for the protection of interests and rights of African governments and the pan-African community.
- The issue as to whether DCA's application for the .dotAfrica string (**1-1165-42560**) will constitute a geographic name as outlined in the Applicant's Guidebook is uncertain, notwithstanding the fact that the applicant itself has designated the application as a "geographic name".
- According to the Applicant's Guidebook (section 2-18) "*Strings that include but do not match a Geographic Name will not be considered geographic names as defined in section 2.2.1.4.2 and therefore will not require documentation of government support in the evaluation process*", which used to be the case of DCA's application before being amended. Now, after amendment, it is identical to the AUC-endorsed application and must be regarded as a geographic name for purposes of evaluation. Consequently, it must be subject to the criteria and rules applicable to the evaluation of geographic names, including government support.
- In contrast to the DCA application, the AUC's officially endorsed dotAfrica (.Africa) geographic application (**1-1243-89583**) has the support of over 39 (thirty nine) individual national governments in Africa, which exceeds the minimum governmental support prescribed by ICANN for new geographic strings.

2. Unwarranted Interference and Intrusion

- DCA's application constitutes an unwarranted intrusion and interference with the mandate

GAC Early Warning – Submittal Africa-KE-42560

given to the AUC by African Head of States and African Ministers responsible for Communication and Information Technologies. In this regard the AUC has been mandated to establish dotAfrica (.Africa) as a continental Top-Level Domain for use by organisations, businesses and individuals with guidance from African Internet Agencies; and in doing so to set up the structures and modalities for the implementation of the dotAfrica (.Africa) project. DCA's persistent interference in this process is likely to have substantive political, economic and social repercussions in Africa.

3. Confusing Similarity

- DCA's applied for string (.Africa) is identical to the dotAfrica (.Africa) geographic application as officially endorsed by the AUC. Should DCA's application be allowed to proceed, it is likely to deceive and/or confuse the public into believing that the AUC is associated with, or endorses their application, which is clearly not the case.
- In particular, it is contended that the amended DCA's .Africa application does not sufficiently differentiate itself from the AUC's endorsed dotAfrica (.Africa) geographic application and will therefore confuse and deceive the public.

Possible Remediation steps for Applicant – This will be posted publicly:

GAC Member(s) to identify possible remediation steps to be taken by the applicant

- The applicant should withdraw the application based on the information provided above.
- The applicant should engage in a discussion with the AUC to agree on how the applicant's experience in the Internet field can be utilized to further benefit the African continent in ways that will not conflict with positions taken by the African Governments.

Further Notes from GAC Member(s) (Optional) – This will be posted publicly:

GAC Early Warning – Submittal Africa-KE-42560

INFORMATION FOR APPLICANTS

About GAC Early Warning

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Instructions if you receive the Early Warning

ICANN strongly encourages you work with relevant parties as soon as possible to address the concerns voiced in the GAC Early Warning.

Asking questions about your GAC Early Warning

If you have questions or need clarification about your GAC Early Warning, please contact gacearlywarning@gac.icann.org. As highlighted above, ICANN strongly encourages you to contact gacearlywarning@gac.icann.org as soon as practicable regarding the issues identified in the Early Warning.

Continuing with your application

If you choose to continue with the application, then the “Applicant’s Response” section below should be completed. In this section, you should notify the GAC of intended actions, including the expected completion date. This completed form should then be sent to gacearlywarning@gac.icann.org. If your remediation steps involve submitting requests for changes to your application, see the change request process at <http://newgtlds.icann.org/en/applicants/customer-service/change-requests>.

In the absence of a response, ICANN will continue to process the application as submitted.

Withdrawing your application

If you choose to withdraw your application within the 21-day window to be eligible for a refund of 80% of the evaluation fee (USD 148,000), please follow the withdrawal process published at <http://newgtlds.icann.org/en/applicants/customer-service/withdrawal-refund>. Note that an application can still be withdrawn after the 21-day time period; however, the available refund amount is reduced. See section 1.5 of the Applicant Guidebook.

For questions please contact: gacearlywarning@gac.icann.org

GAC Early Warning – Submittal Africa-KE-42560

Applicant Response:

GAC Early Warning – Submittal_ Africa-ML-42560

Application ID:	Ref# 1-1165-42560
Entity/Applicant Name:	DotConnectAfrica (DCA)
String:	.Africa
Early Warning Issue Date:	20 November 2012

Early Warning Description – This will be posted publicly:**GAC Member(s) to indicate a description of the Early Warning being filed**

The Government of Mali wishes to express objection to the application submitted by DotConnectAfrica (DCA) for the .Africa geographic Top Level Domain.

The African Union Commission (AUC) is a Union of 54 (fifty four) African states and [has the mandate](#) of African governments for "establishment of dot Africa as a continental Top-Level Domain for use by organizations, businesses and individuals with guidance from African Internet Agencies" and "set up the structure and modalities for the implementation of the dotAfrica project" as provided for in the [2010 Abuja Declaration](#). In keeping with this mandate and following an open and transparent Request for Proposal process, UniForum SA, trading as the ZA Central Registry, was appointed the registry operator to manage and administer the dotAfrica gTLD on behalf of the African Community and for the benefit of the African region.

The DotConnectAfrica application as revised,

- Does not meet the requirements concerning geographic names as described in the new gTLD Applicant Guidebook, since it does not satisfy the required minimum support of concerned (African) governments;
- Constitutes an unwarranted intrusion and interference on the African Union Commission's (AUC) mandate from African governments to establish the structures and modalities for the Implementation of the dotAfrica (.Africa) project; and
- Is identical to the dotAfrica (.Africa) application officially endorsed by the African Union Commission (AUC) and the 39 individual African governments who have submitted letters of support per the Applicants' Guide Book (Ref # 1-1243-89583).

Reason/Rationale for the Warning – This will be posted publicly:

GAC Early Warning – Submittal_Africa-ML-42560

GAC Member(s) to indicate the reason and rationale for the Early Warning being filed.

The African Union (AU) and several African countries have supported and endorsed the application by UniForum (Ref # 1-1243-89583), which was selected through a transparent process conducted by the African Union Commission, as directed by the AU CITMC (Communications and Information Technology Ministerial Conference). The African Union has taken steps to ensure that UniForum will operate .Africa for the public good of the people of Africa, and will put in place sufficient checks and balances for the protection of interests and rights of African governments and the pan-African community.

The Government of Mali therefore hereby records its objection to the DotConnectAfrica application which is competing with the UniForum application that has the support and endorsement of the African Union and an overwhelming number of African governments.

1. DCA's Application lacks the requisite Government Support

- Paragraph 2.2.1.4.2 of the Applicants' Guidebook prescribes that certain applied-for-strings may qualify as "Geographic Names" and must therefore be accompanied by documentation of support or non-objection from the relevant governments or public authorities. In particular, the guidebook requires at least 60% of the relevant national governments in a region to provide documentation in support of new applications for geographic strings and there must be no more than one written statement of objection.
- Africa is a clearly designated geographic region as defined in the UNESCO "Composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings" list. In this regard the designation of the official AUC endorsed dotAfrica (.Africa) TLD string application as a geographic name is therefore technically and procedurally correct. The "geographic evaluation process" that this application is subject to, provides sufficient checks and balances for the protection of interests and rights of African governments and the pan-African community.
- The issue as to whether DCA's application for the .dotAfrica string (1-1165-42560) will constitute a geographic name as outlined in the Applicant's Guidebook is uncertain, notwithstanding the fact that the applicant itself has designated the application as a "geographic name".
- According to the Applicant's Guidebook (section 2-18) "Strings that include but do not match a Geographic Name will not be considered geographic names as defined in section 2.2.1.4.2 and therefore will not require documentation of government support in the evaluation process", which used to be the case of DCA's application before being amended. Now, after amendment, it is identical to the AUC-endorsed application and must be regarded as a geographic name for purposes of evaluation. Consequently, it must be subject to the criteria and rules applicable to the evaluation of geographic names, including government support.
- In contrast to the DCA application, the AUC's officially endorsed dotAfrica (.Africa) geographic application (1-1243-89583) has the support of over 39 (thirty nine) individual national governments in Africa, which exceeds the minimum governmental support prescribed by ICANN for new geographic strings.

2. Unwarranted Interference and Intrusion

- DCA's application constitutes an unwarranted intrusion and interference with the mandate given to the AUC by African Head of States and African Ministers responsible for Communication and

GAC Early Warning – Submittal_ Africa-ML-42560

Information Technologies. In this regard the AUC has been mandated to establish dotAfrica (.Africa) as a continental Top-Level Domain for use by organisations, businesses and individuals with guidance from African Internet Agencies; and in doing so to set up the structures and modalities for the implementation of the dotAfrica (.Africa) project. DCA's persistent interference in this process is likely to have substantive political, economic and social repercussions in Africa.

3. Confusing Similarity

- DCA's applied for string (.Africa) is identical to the dotAfrica (.Africa) geographic application as officially endorsed by the AUC. Should DCA's application be allowed to proceed, it is likely to deceive and/or confuse the public into believing that the AUC is associated with, or endorses their application, which is clearly not the case.
- In particular, it is contended that the amended DCA's .Africa application does not sufficiently differentiate itself from the AUC's endorsed dotAfrica (.Africa) geographic application and will therefore confuse and deceive the public.

Possible Remediation steps for Applicant – This will be posted publicly:

GAC Member(s) to identify possible remediation steps to be taken by the applicant

- The applicant should withdraw the application based on the information provided above.
- The applicant should engage in a discussion with the AUC to agree on how the applicant's experience in the Internet field can be utilized to further benefit the African continent in ways that will not conflict with positions taken by the African Governments.

Further Notes from GAC Member(s) (Optional) – This will be posted publicly:

INFORMATION FOR APPLICANTS

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Instructions if you receive the Early Warning

ICANN strongly encourages you work with relevant parties as soon as possible to address the concerns voiced in the GAC Early Warning.

Asking questions about your GAC Early Warning

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Continuing with your application

If you choose to continue with the application, then the “Applicant’s Response” section below should be completed. In this section, you should notify the GAC of intended actions, including the expected completion date. This completed form should then be sent to gacearlywarning@gac.icann.org. If your remediation steps involve submitting requests for changes to your application, see the change request process at <http://newgtlds.icann.org/en/applicants/customer-service/change-requests>.

In the absence of a response, ICANN will continue to process the application as submitted.

Withdrawing your application

If you choose to withdraw your application within the 21-day window to be eligible for a refund of 80% of the evaluation fee (USD 148,000), please follow the withdrawal process published at <http://newgtlds.icann.org/en/applicants/customer-service/withdrawal-refund>. Note that an application can still be withdrawn after the 21-day time period; however, the available refund amount is reduced. See section 1.5 of the Applicant Guidebook.

For questions please contact: gacearlywarning@gac.icann.org

GAC Early Warning-Submittal

Applicant Response:

GAC Early Warning – Submittal Africa-MA-42560

Application ID:	Ref# 1-1165-42560
Entity/Applicant Name:	DotConnectAfrica (DCA)
String:	.Africa
Early Warning Issue Date:	20 November 2012

Early Warning Description – This will be posted publicly:

The Government of Kingdom of Morocco wishes to express objection to the application submitted by DotConnectAfrica (DCA) for the .Africa geographic Top Level Domain.

The African Union Commission (AUC) [has the mandate](#) of African governments for "establishment of dot Africa as a continental Top-Level Domain for use by organizations, businesses and individuals with guidance from African Internet Agencies" and "set up the structure and modalities for the implementation of the dotAfrica project". In keeping with this mandate and following an open and transparent Request for Proposal process, UniForum SA, trading as the ZA Central Registry, was appointed the registry operator to manage and administer the dotAfrica gTLD on behalf of the African Community and for the benefit of the African region.

The DotConnectAfrica application as revised,

- Does not meet the requirements concerning geographic names as described in the new gTLD Applicant Guidebook, since it does not satisfy the required minimum support of concerned (African) governments;
- Constitutes an unwarranted intrusion and interference on the African Union Commission's (AUC) mandate from African governments to establish the structures and modalities for the Implementation of the dotAfrica (.Africa) project; and
- Is identical to the dotAfrica (.Africa) application officially endorsed by the African Union Commission (AUC) and the 39 individual African governments who have submitted letters of support per the Applicants' Guide Book (**Ref # 1-1243-89583**).

Reason/Rationale for the Warning – This will be posted publicly:

GAC Early Warning – Submittal Africa-MA-42560

The African Union (AU) and several African countries have supported and endorsed the application by UniForum (**Ref # 1-1243-89583**), which was selected through a transparent process conducted by the African Union Commission, as directed by the AU CITMC (Communications and Information Technology Ministerial Conference). The African Union has taken steps to ensure that UniForum will operate .Africa for the public good of the people of Africa, and will put in place sufficient checks and balances for the protection of interests and rights of African governments and the pan-African community.

The Government of Kingdom of Morocco therefore hereby records its objection to the DotConnectAfrica application which is competing with the UniForum application that has the support and endorsement of the African Union and an overwhelming number of African governments.

1. DCA's Application lacks the requisite Government Support

- Paragraph 2.2.1.4.2 of the Applicants' Guidebook prescribes that certain applied-for-strings may qualify as "Geographic Names" and must therefore be accompanied by documentation of support or non-objection from the relevant governments or public authorities. In particular, the guidebook requires at least 60% of the relevant national governments in a region to provide documentation in support of new applications for geographic strings and there must be no more than one written statement of objection.
- Africa is a clearly designated geographic region as defined in the UNESCO "Composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings" list. In this regard the designation of the official AUC endorsed dotAfrica (.Africa) TLD string application as a geographic name is therefore technically and procedurally correct. The "geographic evaluation process" that this application is subject to, provides sufficient checks and balances for the protection of interests and rights of African governments and the pan-African community.
- The issue as to whether DCA's application for the .dotAfrica string (**1-1165-42560**) will constitute a geographic name as outlined in the Applicant's Guidebook is uncertain, notwithstanding the fact that the applicant itself has designated the application as a "geographic name".
- According to the Applicant's Guidebook (section 2-18) "*Strings that include but do not match a Geographic Name will not be considered geographic names as defined in section 2.2.1.4.2 and therefore will not require documentation of government support in the evaluation process*", which used to be the case of DCA's application before being amended. Now, after amendment, it is identical to the AUC-endorsed application and must be regarded as a geographic name for purposes of evaluation. Consequently, it must be subject to the criteria and rules applicable to the evaluation of geographic names, including government support.
- In contrast to the DCA application, the AUC's officially endorsed dotAfrica (.Africa) geographic application (**1-1243-89583**) has the support of over 39 (thirty nine) individual national governments in Africa, which exceeds the minimum governmental support prescribed by ICANN for new geographic strings.

2. Unwarranted Interference and Intrusion

- DCA's application constitutes an unwarranted intrusion and interference with the mandate given to the AUC by African Head of States and African Ministers responsible for Communication and Information Technologies. In this regard the AUC has been mandated to establish dotAfrica (.Africa) as a continental Top-Level Domain for use by organisations, businesses and individuals

GAC Early Warning – Submittal Africa-MA-42560

with guidance from African Internet Agencies; and in doing so to set up the structures and modalities for the implementation of the dotAfrica (.Africa) project. DCA's persistent interference in this process is likely to have substantive political, economic and social repercussions in Africa.

3. Confusing Similarity

- DCA's applied for string (.Africa) is identical to the dotAfrica (.Africa) geographic application as officially endorsed by the AUC. Should DCA's application be allowed to proceed, it is likely to deceive and/or confuse the public into believing that the AUC is associated with, or endorses their application, which is clearly not the case.
- In particular, it is contended that the amended DCA's .Africa application does not sufficiently differentiate itself from the AUC's endorsed dotAfrica (.Africa) geographic application and will therefore confuse and deceive the public.

Possible Remediation steps for Applicant – This will be posted publicly:

- The applicant should withdraw the application based on the information provided above.
- The applicant should engage in a discussion with the AUC to agree on how the applicant's experience in the Internet field can be utilized to further benefit the African continent in ways that will not conflict with positions taken by the African Governments.

Further Notes from GAC Member(s) (Optional) – This will be posted publicly:

GAC Early Warning – Submittal Africa-MA-42560

INFORMATION FOR APPLICANTS

About GAC Early Warning

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Instructions if you receive the Early Warning

ICANN strongly encourages you work with relevant parties as soon as possible to address the concerns voiced in the GAC Early Warning.

Asking questions about your GAC Early Warning

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Continuing with your application

If you choose to continue with the application, then the “Applicant’s Response” section below should be completed. In this section, you should notify the GAC of intended actions, including the expected completion date. This completed form should then be sent to gacearlywarning@gac.icann.org. If your remediation steps involve submitting requests for changes to your application, see the change request process at <http://newgtlds.icann.org/en/applicants/customer-service/change-requests>.

In the absence of a response, ICANN will continue to process the application as submitted.

Withdrawing your application

If you choose to withdraw your application within the 21-day window to be eligible for a refund of 80% of the evaluation fee (USD 148,000), please follow the withdrawal process published at <http://newgtlds.icann.org/en/applicants/customer-service/withdrawal-refund>. Note that an application can still be withdrawn after the 21-day time period; however, the available refund amount is reduced. See section 1.5 of the Applicant Guidebook.

For questions please contact: gacearlywarning@gac.icann.org

GAC Early Warning – Submittal Africa-MA-42560

Applicant Response:

GAC Early Warning – Submittal Africa-NG-2-42560

Application ID:	Ref# 1-1165-42560
Entity/Applicant Name:	DotConnectAfrica (DCA)
String:	.Africa
Early Warning Issue Date:	20 November 2012

Early Warning Description – This will be posted publicly:**GAC Member(s) to indicate a description of the Early Warning being filed**

The Government of The Federal Republic of Nigeria wishes to express objection to the application submitted by DotConnectAfrica (DCA) for the .Africa geographic Top Level Domain.

The African Union Commission (AUC) is a Union of 54 (fifty four) African states and [has the mandate](#) of African governments for "establishment of dot Africa as a continental Top-Level Domain for use by organizations, businesses and individuals with guidance from African Internet Agencies" and "set up the structure and modalities for the implementation of the dotAfrica project" as provided for in the [2010 Abuja Declaration](#). In keeping with this mandate and following an open and transparent Request for Proposal process, UniForum SA, trading as the ZA Central Registry, was appointed the registry operator to manage and administer the dotAfrica gTLD on behalf of the African Community and for the benefit of the African region.

The DotConnectAfrica application as revised,

- Does not meet the requirements concerning geographic names as described in the new gTLD Applicant Guidebook, since it does not satisfy the required minimum support of concerned (African) governments;
- Constitutes an unwarranted intrusion and interference on the African Union Commission's (AUC) mandate from African governments to establish the structures and modalities for the Implementation of the dotAfrica (.Africa) project; and
- Is identical to the dotAfrica (.Africa) application officially endorsed by the African Union Commission (AUC) and the 39 individual African governments who have submitted letters of support per the Applicants' Guide Book (**Ref # 1-1243-89583**).

Reason/Rationale for the Warning – This will be posted publicly:

GAC Early Warning – Submittal Africa-NG-2-42560

GAC Member(s) to indicate the reason and rationale for the Early Warning being filed.

The African Union (AU) and several African countries have supported and endorsed the application by UniForum (**Ref # 1-1243-89583**), which was selected through a transparent process conducted by the African Union Commission, as directed by the AU CITMC (Communications and Information Technology Ministerial Conference). The African Union has taken steps to ensure that UniForum will operate .Africa for the public good of the people of Africa, and will put in place sufficient checks and balances for the protection of interests and rights of African governments and the pan-African community.

The Government of Kenya therefore hereby records its objection to the DotConnectAfrica application which is competing with the UniForum application that has the support and endorsement of the African Union and an overwhelming number of African governments.

1. DCA's Application lacks the requisite Government Support

- Paragraph 2.2.1.4.2 of the Applicants' Guidebook prescribes that certain applied-for-strings may qualify as "Geographic Names" and must therefore be accompanied by documentation of support or non-objection from the relevant governments or public authorities. In particular, the guidebook requires at least 60% of the relevant national governments in a region to provide documentation in support of new applications for geographic strings and there must be no more than one written statement of objection.
- Africa is a clearly designated geographic region as defined in the UNESCO "Composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings" list. In this regard the designation of the official AUC endorsed dotAfrica (.Africa) TLD string application as a geographic name is therefore technically and procedurally correct. The "geographic evaluation process" that this application is subject to, provides sufficient checks and balances for the protection of interests and rights of African governments and the pan-African community.
- The issue as to whether DCA's application for the .dotAfrica string (**1-1165-42560**) will constitute a geographic name as outlined in the Applicant's Guidebook is uncertain, notwithstanding the fact that the applicant itself has designated the application as a "geographic name".
- According to the Applicant's Guidebook (section 2-18) "*Strings that include but do not match a Geographic Name will not be considered geographic names as defined in section 2.2.1.4.2 and therefore will not require documentation of government support in the evaluation process*", which used to be the case of DCA's application before being amended. Now, after amendment, it is identical to the AUC-endorsed application and must be regarded as a geographic name for purposes of evaluation. Consequently, it must be subject to the criteria and rules applicable to the evaluation of geographic names, including government support.
- In contrast to the DCA application, the AUC's officially endorsed dotAfrica (.Africa) geographic application (**1-1243-89583**) has the support of over 39 (thirty nine) individual national governments in Africa, which exceeds the minimum governmental support prescribed by ICANN for new geographic strings.

2. Unwarranted Interference and Intrusion

- DCA's application constitutes an unwarranted intrusion and interference with the mandate

GAC Early Warning – Submittal Africa-NG-2-42560

given to the AUC by African Head of States and African Ministers responsible for Communication and Information Technologies. In this regard the AUC has been mandated to establish dotAfrica (.Africa) as a continental Top-Level Domain for use by organisations, businesses and individuals with guidance from African Internet Agencies; and in doing so to set up the structures and modalities for the implementation of the dotAfrica (.Africa) project. DCA's persistent interference in this process is likely to have substantive political, economic and social repercussions in Africa.

3. Confusing Similarity

- DCA's applied for string (.Africa) is identical to the dotAfrica (.Africa) geographic application as officially endorsed by the AUC. Should DCA's application be allowed to proceed, it is likely to deceive and/or confuse the public into believing that the AUC is associated with, or endorses their application, which is clearly not the case.
- In particular, it is contended that the amended DCA's .Africa application does not sufficiently differentiate itself from the AUC's endorsed dotAfrica (.Africa) geographic application and will therefore confuse and deceive the public.

Possible Remediation steps for Applicant – This will be posted publicly:

GAC Member(s) to identify possible remediation steps to be taken by the applicant

- The applicant should withdraw the application based on the information provided above.
- The applicant should engage in a discussion with the AUC to agree on how the applicant's experience in the Internet field can be utilized to further benefit the African continent in ways that will not conflict with positions taken by the African Governments.

Further Notes from GAC Member(s) (Optional) – This will be posted publicly:

GAC Early Warning – Submittal Africa-SN-42560

Application ID:	Ref# 1-1165-42560
Entity/Applicant Name:	DotConnectAfrica (DCA)
String:	.Africa
Early Warning Issue Date:	20 November 2012

Early Warning Description – This will be posted publicly:**GAC Member(s) to indicate a description of the Early Warning being filed**

The Government of the republic of Senegal wishes to express objection to the application submitted by DotConnectAfrica (DCA) for the .Africa geographic Top Level Domain.

The African Union Commission (AUC) is a Union of 54 (fifty four) African states and [has the mandate](#) of African governments for "establishment of dot Africa as a continental Top-Level Domain for use by organizations, businesses and individuals with guidance from African Internet Agencies" and "set up the structure and modalities for the implementation of the dotAfrica project" as provided for in the [2010 Abuja Declaration](#). In keeping with this mandate and following an open and transparent Request for Proposal process, UniForum SA, trading as the ZA Central Registry, was appointed the registry operator to manage and administer the dotAfrica gTLD on behalf of the African Community and for the benefit of the African region.

The DotConnectAfrica application as revised,

- Does not meet the requirements concerning geographic names as described in the new gTLD Applicant Guidebook, since it does not satisfy the required minimum support of concerned (African) governments;
- Constitutes an unwarranted intrusion and interference on the African Union Commission's (AUC) mandate from African governments to establish the structures and modalities for the Implementation of the dotAfrica (.Africa) project; and
- Is identical to the dotAfrica (.Africa) application officially endorsed by the African Union Commission (AUC) and the 39 individual African governments who have submitted letters of support per the Applicants' Guide Book (Ref # 1-1243-89583).

Reason/Rationale for the Warning – This will be posted publicly:

GAC Early Warning – Submittal _____

GAC Member(s) to indicate the reason and rationale for the Early Warning being filed.

The African Union (AU) and several African countries have supported and endorsed the application by UniForum (**Ref # 1-1243-89583**), which was selected through a transparent process conducted by the African Union Commission, as directed by the AU CITMC (Communications and Information Technology Ministerial Conference). The African Union has taken steps to ensure that UniForum will operate .Africa for the public good of the people of Africa, and will put in place sufficient checks and balances for the protection of interests and rights of African governments and the pan-African community.

The Government of Senegal therefore hereby records its objection to the DotConnectAfrica application which is competing with the UniForum application that has the support and endorsement of the African Union and an overwhelming number of African governments.

1. DCA's Application lacks the requisite Government Support

- Paragraph 2.2.1.4.2 of the Applicants' Guidebook prescribes that certain **applied-for-strings** may qualify as "Geographic Names" and must therefore be accompanied by documentation of support or **non-objection** from the relevant governments or public authorities. In particular, the guidebook requires at least 60% of the relevant national governments in a region to provide documentation in support of new applications for geographic strings and there must be no more than one written statement of **objection**.
- Africa is a clearly designated geographic region as defined in the UNESCO "Composition of macro geographical (continental) regions, geographical **sub-regions**, and selected economic and other groupings" list. In this regard the designation of the official AUC endorsed dotAfrica (.Africa) TLD string application as a geographic name is therefore technically and procedurally correct. The "geographic evaluation process" that this application is subject to, provides sufficient checks and balances for the protection of interests and rights of African governments and the **pan-African community**.
- The issue as to whether DCA's application for the .dotAfrica string (**1-1165-42560**) will constitute a geographic name as outlined in the Applicant's Guidebook is uncertain, notwithstanding the fact that the applicant itself has designated the application as a "geographic name".
- According to the Applicant's Guidebook (section 2-18) "*Strings that include but do not match a Geographic Name will not be considered geographic names as defined in section 2.2.1.4.2 and therefore will not require documentation of government support in the evaluation process*", which used to be the case of DCA's application before being amended. Now, after amendment, it is identical to the **AUC-endorsed** application and must be regarded as a geographic name for purposes of evaluation. Consequently, it must be subject to the criteria and rules applicable to the evaluation of geographic names, including government support.
- In contrast to the DCA application, the AUC's officially endorsed dotAfrica (.Africa) geographic application (**1-1243-89583**) has the support of over 39 (thirty nine) individual national governments in Africa, which exceeds the minimum governmental support prescribed by ICANN for new geographic strings.

2. Unwarranted Interference and Intrusion

- DCA's application constitutes an unwarranted intrusion and interference with the mandate given to the AUC by African Head of States and African Ministers responsible for Communication and

GAC Early Warning – Submittal_____

Information Technologies. In this regard the AUC has been mandated to establish dotAfrica (.Africa) as a continental Top-Level Domain for use by organisations, businesses and individuals with guidance from African Internet Agencies; and in doing so to set up the structures and modalities for the implementation of the dotAfrica (.Africa) project. DCA's persistent interference in this process is likely to have substantive political, economic and social repercussions in Africa.

3. Confusing Similarity

- DCA's applied for string (.Africa) is identical to the dotAfrica (.Africa) geographic application as officially endorsed by the AUC. Should DCA's application be allowed to proceed, it is likely to deceive and/or confuse the public into believing that the AUC is associated with, or endorses their application, which is clearly not the case.
- In particular, it is contended that the amended DCA's .Africa application does not sufficiently differentiate itself from the AUC's endorsed dotAfrica (.Africa) geographic application and will therefore confuse and deceive the public.

Possible Remediation steps for Applicant – This will be posted publicly:

GAC Member(s) to identify possible remediation steps to be taken by the applicant

- The applicant should withdraw the application based on the information provided above.
- The applicant should engage in a discussion with the AUC to agree on how the applicant's experience in the Internet field can be utilized to further benefit the African continent in ways that will not conflict with positions taken by the African Governments.

Further Notes from GAC Member(s) (Optional) – This will be posted publicly:

GAC Early Warning – Submittal_____

INFORMATION FOR APPLICANTS

About GAC Early Warning

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Instructions if you receive the Early Warning

ICANN strongly encourages you work with relevant parties as soon as possible to address the concerns voiced in the GAC Early Warning.

Asking questions about your GAC Early Warning

If you have questions or need clarification about your GAC Early Warning, please contact gacearlywarning@gac.icann.org. As highlighted above, ICANN strongly encourages you to contact gacearlywarning@gac.icann.org as soon as practicable regarding the issues identified in the Early Warning.

Continuing with your application

If you choose to continue with the application, then the “Applicant’s Response” section below should be completed. In this section, you should notify the GAC of intended actions, including the expected completion date. This completed form should then be sent to gacearlywarning@gac.icann.org. If your remediation steps involve submitting requests for changes to your application, see the change request process at <http://newgtlds.icann.org/en/applicants/customer-service/change-requests>.

In the absence of a response, ICANN will continue to process the application as submitted.

Withdrawing your application

If you choose to withdraw your application within the 21-day window to be eligible for a refund of 80% of the evaluation fee (USD 148,000), please follow the withdrawal process published at <http://newgtlds.icann.org/en/applicants/customer-service/withdrawal-refund>. Note that an application can still be withdrawn after the 21-day time period; however, the available refund amount is reduced. See section 1.5 of the Applicant Guidebook.

For questions please contact: gacearlywarning@gac.icann.org

GAC Early Warning-Submittal

Applicant Response:

GAC Early Warning – Submittal Africa-ZA-89583

Application ID:	Ref# 1-1243-89583
Entity/Applicant Name:	DotConnectAfrica (DCA)
String:	.Africa
Early Warning Issue Date:	20 November 2012

Early Warning Description – This will be posted publicly:**GAC Member(s) to indicate a description of the Early Warning being filed**

The Government of South Africa wishes to express objection to the application submitted by DotConnectAfrica (DCA) for the .Africa geographic Top Level Domain.

The African Union Commission (AUC) is a Union of 54 (fifty four) African states and [has the mandate](#) of African governments for "establishment of dot Africa as a continental Top-Level Domain for use by organizations, businesses and individuals with guidance from African Internet Agencies" and "set up the structure and modalities for the implementation of the dotAfrica project" as provided for in the [2010 Abuja Declaration](#). In keeping with this mandate and following an open and transparent Request for Proposal process, UniForum SA, trading as the ZA Central Registry, was appointed the registry operator to manage and administer the dotAfrica gTLD on behalf of the African Community and for the benefit of the African region.

The DotConnectAfrica application as revised,

- Does not meet the requirements concerning geographic names as described in the new gTLD Applicant Guidebook, since it does not satisfy the required minimum support of concerned (African) governments;
- Constitutes an unwarranted intrusion and interference on the African Union Commission's (AUC) mandate from African governments to establish the structures and modalities for the Implementation of the dotAfrica (.Africa) project; and
- Is identical to the dotAfrica (.Africa) application officially endorsed by the African Union Commission (AUC) and the 39 individual African governments who have submitted letters of support per the Applicants' Guide Book (**Ref # 1-1243-89583**).

Reason/Rationale for the Warning – This will be posted publicly:

GAC Early Warning – Submittal Africa-ZA-89583

GAC Member(s) to indicate the reason and rationale for the Early Warning being filed.

The African Union (AU) and several African countries have supported and endorsed the application by UniForum (**Ref # 1-1243-89583**), which was selected through a transparent process conducted by the African Union Commission, as directed by the AU CITMC (Communications and Information Technology Ministerial Conference). The African Union has taken steps to ensure that UniForum will operate .Africa for the public good of the people of Africa, and will put in place sufficient checks and balances for the protection of interests and rights of African governments and the pan-African community.

The Government of South Africa therefore hereby records its objection to the DotConnectAfrica application which is competing with the UniForum application that has the support and endorsement of the African Union and an overwhelming number of African governments.

1. DCA's Application lacks the requisite Government Support

- Paragraph 2.2.1.4.2 of the Applicants' Guidebook prescribes that certain applied-for-strings may qualify as "Geographic Names" and must therefore be accompanied by documentation of support or non-objection from the relevant governments or public authorities. In particular, the guidebook requires at least 60% of the relevant national governments in a region to provide documentation in support of new applications for geographic strings and there must be no more than one written statement of objection.
- Africa is a clearly designated geographic region as defined in the UNESCO "Composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings" list. In this regard the designation of the official AUC endorsed dotAfrica (.Africa) TLD string application as a geographic name is therefore technically and procedurally correct. The "geographic evaluation process" that this application is subject to, provides sufficient checks and balances for the protection of interests and rights of African governments and the pan-African community.
- The issue as to whether DCA's application for the .dotAfrica string (**1-1165-42560**) will constitute a geographic name as outlined in the Applicant's Guidebook is uncertain, notwithstanding the fact that the applicant itself has designated the application as a "geographic name".
- According to the Applicant's Guidebook (section 2-18) "*Strings that include but do not match a Geographic Name will not be considered geographic names as defined in section 2.2.1.4.2 and therefore will not require documentation of government support in the evaluation process*", which used to be the case of DCA's application before being amended. Now, after amendment, it is identical to the AUC-endorsed application and must be regarded as a geographic name for purposes of evaluation. Consequently, it must be subject to the criteria and rules applicable to the evaluation of geographic names, including government support.
- In contrast to the DCA application, the AUC's officially endorsed dotAfrica (.Africa) geographic application (**1-1243-89583**) has the support of over 39 (thirty nine) individual national governments in Africa, which exceeds the minimum governmental support prescribed by ICANN for new geographic strings.

2. Unwarranted Interference and Intrusion

- DCA's application constitutes an unwarranted intrusion and interference with the mandate given to the AUC by African Head of States and African Ministers responsible for Communication and

GAC Early Warning – Submittal Africa-ZA-89583

Information Technologies. In this regard the AUC has been mandated to establish dotAfrica (.Africa) as a continental Top-Level Domain for use by organisations, businesses and individuals with guidance from African Internet Agencies; and in doing so to set up the structures and modalities for the implementation of the dotAfrica (.Africa) project. DCA's persistent interference in this process is likely to have substantive political, economic and social repercussions in Africa.

3. Confusing Similarity

- DCA's applied for string (.Africa) is identical to the dotAfrica (.Africa) geographic application as officially endorsed by the AUC. Should DCA's application be allowed to proceed, it is likely to deceive and/or confuse the public into believing that the AUC is associated with, or endorses their application, which is clearly not the case.
- In particular, it is contended that the amended DCA's .Africa application does not sufficiently differentiate itself from the AUC's endorsed dotAfrica (.Africa) geographic application and will therefore confuse and deceive the public.

Possible Remediation steps for Applicant – This will be posted publicly:

GAC Member(s) to identify possible remediation steps to be taken by the applicant

- The applicant should withdraw the application based on the information provided above.
- The applicant should engage in a discussion with the AUC to agree on how the applicant's experience in the Internet field can be utilized to further benefit the African continent in ways that will not conflict with positions taken by the African Governments.

Further Notes from GAC Member(s) (Optional) – This will be posted publicly:

GAC Early Warning – Submittal Africa-ZA-89583

INFORMATION FOR APPLICANTS

About GAC Early Warning

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Instructions if you receive the Early Warning

ICANN strongly encourages you work with relevant parties as soon as possible to address the concerns voiced in the GAC Early Warning.

Asking questions about your GAC Early Warning

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Continuing with your application

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In the absence of a response, ICANN will continue to process the application as submitted.

Withdrawing your application

If you choose to withdraw your application within the 21-day window to be eligible for a refund of 80% of the evaluation fee (USD 148,000), please follow the withdrawal process published at <http://newgtlds.icann.org/en/applicants/customer-service/withdrawal-refund>. Note that an application can still be withdrawn after the 21-day time period; however, the available refund amount is reduced. See section 1.5 of the Applicant Guidebook.

For questions please contact: gacearlywarning@gac.icann.org

GAC Early Warning – Submittal Africa-ZA-89583

Applicant Response:

GAC Early Warning – Submittal Africa-TZ-42560

Application ID:	Ref# 1-1165-42560
Entity/Applicant Name:	DotConnectAfrica (DCA)
String:	.Africa
Early Warning Issue Date:	20 November 2012

Early Warning Description – This will be posted publicly:**GAC Member(s) to indicate a description of the Early Warning being filed**

The Government of Tanzania wishes to express objection to the application submitted by DotConnectAfrica (DCA) for the .Africa geographic Top Level Domain.

The African Union Commission (AUC) is a Union of 54 (fifty four) African states and [has the mandate](#) of African governments for "establishment of dot Africa as a continental Top-Level Domain for use by organizations, businesses and individuals with guidance from African Internet Agencies" and "set up the structure and modalities for the implementation of the dotAfrica project" as provided for in the [2010 Abuja Declaration](#). In keeping with this mandate and following an open and transparent Request for Proposal process, UniForum SA, trading as the ZA Central Registry, was appointed the registry operator to manage and administer the dotAfrica gTLD on behalf of the African Community and for the benefit of the African region.

The DotConnectAfrica application as revised,

- Does not meet the requirements concerning geographic names as described in the new gTLD Applicant Guidebook, since it does not satisfy the required minimum support of concerned (African) governments;
- Constitutes an unwarranted intrusion and interference on the African Union Commission's (AUC) mandate from African governments to establish the structures and modalities for the Implementation of the dotAfrica (.Africa) project; and
- Is identical to the dotAfrica (.Africa) application officially endorsed by the African Union Commission (AUC) and the 39 individual African governments who have submitted letters of support per the Applicants' Guide Book (Ref # 1-1243-89583).

Reason/Rationale for the Warning – This will be posted publicly:

GAC Early Warning – Submittal Africa-TZ-42560

GAC Member(s) to indicate the reason and rationale for the Early Warning being filed.

The African Union (AU) and several African countries have supported and endorsed the application by UniForum (**Ref # 1-1243-89583**), which was selected through a transparent process conducted by the African Union Commission, as directed by the AU CITMC (Communications and Information Technology Ministerial Conference). The African Union has taken steps to ensure that UniForum will operate .Africa for the public good of the people of Africa, and will put in place sufficient checks and balances for the protection of interests and rights of African governments and the pan-African community.

The Government of Tanzania therefore hereby records its objection to the DotConnectAfrica application which is competing with the UniForum application that has the support and endorsement of the African Union and an overwhelming number of African governments.

1. DCA's Application lacks the requisite Government Support

- Paragraph 2.2.1.4.2 of the Applicants' Guidebook prescribes that certain applied-for-strings may qualify as "Geographic Names" and must therefore be accompanied by documentation of support or non-objection from the relevant governments or public authorities. In particular, the guidebook requires at least 60% of the relevant national governments in a region to provide documentation in support of new applications for geographic strings and there must be no more than one written statement of objection.
- Africa is a clearly designated geographic region as defined in the UNESCO "Composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings" list. In this regard the designation of the official AUC endorsed dotAfrica (.Africa) TLD string application as a geographic name is therefore technically and procedurally correct. The "geographic evaluation process" that this application is subject to, provides sufficient checks and balances for the protection of interests and rights of African governments and the pan-African community.
- The issue as to whether DCA's application for the .dotAfrica string (**1-1165-42560**) will constitute a geographic name as outlined in the Applicant's Guidebook is uncertain, notwithstanding the fact that the applicant itself has designated the application as a "geographic name".
- According to the Applicant's Guidebook (section 2-18) "*Strings that include but do not match a Geographic Name will not be considered geographic names as defined in section 2.2.1.4.2 and therefore will not require documentation of government support in the evaluation process*", which used to be the case of DCA's application before being amended. Now, after amendment, it is identical to the AUC-endorsed application and must be regarded as a geographic name for purposes of evaluation. Consequently, it must be subject to the criteria and rules applicable to the evaluation of geographic names, including government support.
- In contrast to the DCA application, the AUC's officially endorsed dotAfrica (.Africa) geographic application (**1-1243-89583**) has the support of over 39 (thirty nine) individual national governments in Africa, which exceeds the minimum governmental support prescribed by ICANN for new geographic strings.

2. Unwarranted Interference and Intrusion

- DCA's application constitutes an unwarranted intrusion and interference with the mandate given to the AUC by African Head of States and African Ministers responsible for Communication and

GAC Early Warning – Submittal Africa-TZ-42560

Information Technologies. In this regard the AUC has been mandated to establish dotAfrica (.Africa) as a continental Top-Level Domain for use by organisations, businesses and individuals with guidance from African Internet Agencies; and in doing so to set up the structures and modalities for the implementation of the dotAfrica (.Africa) project. DCA's persistent interference in this process is likely to have substantive political, economic and social repercussions in Africa.

3. Confusing Similarity

- DCA's applied for string (.Africa) is identical to the dotAfrica (.Africa) geographic application as officially endorsed by the AUC. Should DCA's application be allowed to proceed, it is likely to deceive and/or confuse the public into believing that the AUC is associated with, or endorses their application, which is clearly not the case.
- In particular, it is contended that the amended DCA's .Africa application does not sufficiently differentiate itself from the AUC's endorsed dotAfrica (.Africa) geographic application and will therefore confuse and deceive the public.

Possible Remediation steps for Applicant – This will be posted publicly:

GAC Member(s) to identify possible remediation steps to be taken by the applicant

- The applicant should withdraw the application based on the information provided above.
- The applicant should engage in a discussion with the AUC to agree on how the applicant's experience in the Internet field can be utilized to further benefit the African continent in ways that will not conflict with positions taken by the African Governments.

Further Notes from GAC Member(s) (Optional) – This will be posted publicly:

GAC Early Warning – Submittal Africa-TZ-42560

INFORMATION FOR APPLICANTS

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For questions please contact: gacearlywarning@gac.icann.org

GAC Early Warning – Submittal Africa-TZ-42560

Applicant Response:

GAC Early Warning – Submittal Africa-UG-42560

Application ID:	Ref# 1-1165-42560
Entity/Applicant Name:	DotConnectAfrica (DCA)
String:	.Africa
Early Warning Issue Date:	20 November 2012

Early Warning Description – This will be posted publicly:**GAC Member(s) to indicate a description of the Early Warning being filed**

The Government of Uganda wishes to express objection to the application submitted by DotConnectAfrica (DCA) for the .Africa geographic Top Level Domain.

The African Union Commission (AUC) is a Union of 54 (fifty four) African states and [has the mandate](#) of African governments for "establishment of dot Africa as a continental Top-Level Domain for use by organizations, businesses and individuals with guidance from African Internet Agencies" and "set up the structure and modalities for the implementation of the dotAfrica project" as provided for in the [2010 Abuja Declaration](#). In keeping with this mandate and following an open and transparent Request for Proposal process, UniForum SA, trading as the ZA Central Registry, was appointed the registry operator to manage and administer the dotAfrica gTLD on behalf of the African Community and for the benefit of the African region.

The DotConnectAfrica application as revised,

- Does not meet the requirements concerning geographic names as described in the new gTLD Applicant Guidebook, since it does not satisfy the required minimum support of concerned (African) governments;
- Constitutes an unwarranted intrusion and interference on the African Union Commission's (AUC) mandate from African governments to establish the structures and modalities for the Implementation of the dotAfrica (.Africa) project; and
- Is identical to the dotAfrica (.Africa) application officially endorsed by the African Union Commission (AUC) and the 39 individual African governments who have submitted letters of support per the Applicants' Guide Book (**Ref # 1-1243-89583**).

Reason/Rationale for the Warning – This will be posted publicly:

GAC Early Warning – Submittal Africa-UG-42560

GAC Member(s) to indicate the reason and rationale for the Early Warning being filed.

The African Union (AU) and several African countries have supported and endorsed the application by UniForum (**Ref # 1-1243-89583**), which was selected through a transparent process conducted by the African Union Commission, as directed by the AU CITMC (Communications and Information Technology Ministerial Conference). The African Union has taken steps to ensure that UniForum will operate .Africa for the public good of the people of Africa, and will put in place sufficient checks and balances for the protection of interests and rights of African governments and the pan-African community.

The Government of Uganda ,therefore, hereby records its objection to the DotConnectAfrica application which is competing with the UniForum application that has the support and endorsement of the African Union and an overwhelming number of African governments.

1. DCA's Application lacks the requisite Government Support

- Paragraph 2.2.1.4.2 of the Applicants' Guidebook prescribes that certain applied-for-strings may qualify as "Geographic Names" and must therefore be accompanied by documentation of support or non-objection from the relevant governments or public authorities. In particular, the guidebook requires at least 60% of the relevant national governments in a region to provide documentation in support of new applications for geographic strings and there must be no more than one written statement of objection.
- Africa is a clearly designated geographic region as defined in the UNESCO "Composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings" list. In this regard the designation of the official AUC endorsed dotAfrica (.Africa) TLD string application as a geographic name is therefore technically and procedurally correct. The "geographic evaluation process" that this application is subject to, provides sufficient checks and balances for the protection of interests and rights of African governments and the pan-African community.
- The issue as to whether DCA's application for the .dotAfrica string (**1-1165-42560**) will constitute a geographic name as outlined in the Applicant's Guidebook is uncertain, notwithstanding the fact that the applicant itself has designated the application as a "geographic name".
- According to the Applicant's Guidebook (section 2-18) "*Strings that include but do not match a Geographic Name will not be considered geographic names as defined in section 2.2.1.4.2 and therefore will not require documentation of government support in the evaluation process*", which used to be the case of DCA's application before being amended. Now, after amendment, it is identical to the AUC-endorsed application and must be regarded as a geographic name for purposes of evaluation. Consequently, it must be subject to the criteria and rules applicable to the evaluation of geographic names, including government support.
- In contrast to the DCA application, the AUC's officially endorsed dotAfrica (.Africa) geographic application (**1-1243-89583**) has the support of over 39 (thirty nine) individual national governments in Africa, which exceeds the minimum governmental support prescribed by ICANN for new geographic strings.

2. Unwarranted Interference and Intrusion

- DCA's application constitutes an unwarranted intrusion and interference with the mandate

GAC Early Warning – Submittal Africa-UG-42560

given to the AUC by African Head of States and African Ministers responsible for Communication and Information Technologies. In this regard the AUC has been mandated to establish dotAfrica (.Africa) as a continental Top-Level Domain for use by organisations, businesses and individuals with guidance from African Internet Agencies; and in doing so to set up the structures and modalities for the implementation of the dotAfrica (.Africa) project. DCA's persistent interference in this process is likely to have substantive political, economic and social repercussions in Africa.

3. Confusing Similarity

- DCA's applied for string (.Africa) is identical to the dotAfrica (.Africa) geographic application as officially endorsed by the AUC. Should DCA's application be allowed to proceed, it is likely to deceive and/or confuse the public into believing that the AUC is associated with, or endorses their application, which is clearly not the case.
- In particular, it is contended that the amended DCA's .Africa application does not sufficiently differentiate itself from the AUC's endorsed dotAfrica (.Africa) geographic application and will therefore confuse and deceive the public.

Possible Remediation steps for Applicant – This will be posted publicly:

GAC Member(s) to identify possible remediation steps to be taken by the applicant

- The applicant should withdraw the application based on the information provided above.
- The applicant should engage in a discussion with the AUC to agree on how the applicant's experience in the Internet field can be utilized to further benefit the African continent in ways that will not conflict with positions taken by the African Governments.

Further Notes from GAC Member(s) (Optional) – This will be posted publicly:

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INFORMATION FOR APPLICANTS

About GAC Early Warning

The GAC Early Warning is a notice only. It is not a formal objection, nor does it directly lead to a process that can result in rejection of the application. However, a GAC Early Warning should be taken seriously as it raises the likelihood that the application could be the subject of GAC Advice on New gTLDs or of a formal objection at a later stage in the process. Refer to section 1.1.2.4 of the Applicant Guidebook (<http://newgtlds.icann.org/en/applicants/agg>) for more information on GAC Early Warning.

Instructions if you receive the Early Warning

ICANN strongly encourages you work with relevant parties as soon as possible to address the concerns voiced in the GAC Early Warning.

Asking questions about your GAC Early Warning

If you have questions or need clarification about your GAC Early Warning, please contact gacearlywarning@gac.icann.org. As highlighted above, ICANN strongly encourages you to contact gacearlywarning@gac.icann.org as soon as practicable regarding the issues identified in the Early Warning.

Continuing with your application

If you choose to continue with the application, then the “Applicant’s Response” section below should be completed. In this section, you should notify the GAC of intended actions, including the expected completion date. This completed form should then be sent to gacearlywarning@gac.icann.org. If your remediation steps involve submitting requests for changes to your application, see the change request process at <http://newgtlds.icann.org/en/applicants/customer-service/change-requests>.

In the absence of a response, ICANN will continue to process the application as submitted.

Withdrawing your application

If you choose to withdraw your application within the 21-day window to be eligible for a refund of 80% of the evaluation fee (USD 148,000), please follow the withdrawal process published at <http://newgtlds.icann.org/en/applicants/customer-service/withdrawal-refund>. Note that an application can still be withdrawn after the 21-day time period; however, the available refund amount is reduced. See section 1.5 of the Applicant Guidebook.

For questions please contact: gacearlywarning@gac.icann.org

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Applicant Response:

EXHIBIT E

User Documentation on Delegating and Redelegating a Generic Top-Level Domain (gTLD)

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Delegating a generic top-level domain

This document provides a guide to the generic top-level domain (gTLD) delegation process.

What is a delegation request?

As part of the responsibilities for managing the root zone, ICANN's IANA department is responsible for receiving requests to delegate domains in the DNS root zone. Note that this process is distinct from the process used to apply to be eligible for a new gTLD.

The delegation process results in the "NS" records being placed in the DNS root zone to make the domain active in the domain name system. This then facilitates the registry operator to commence the process to bring the registry service into production.

Submitting a delegation request

At the conclusion of the evaluation process for a new gTLD, i.e. following contract execution and pre-delegation testing by ICANN, a the registry operator will be provided with a unique delegation token and URL to ICANN's IANA Root Zone Management (RZM) site for new gTLD delegations.

Registry operators that are ready to commence a request for delegation must visit the RZM site and enter their token in order to commence the procedure.

At the start of the procedure, the registry operator or its agent (requestor) is asked to provide an email address to serve as a contact point for the life of the request. This email address will be validated to ensure it works correctly.

Following this, the requestor will be asked to provide details on the sponsoring organisation (i.e. contracted party), its designated administrative and technical contacts, and its technical configuration. The requirements for these elements are the same as for [other types of root zone changes](#). The request will follow the routine change processing steps as defined below. In addition to following the routine steps, a delegation report will be sent to the ICANN Board and the Root Zone Administrator.

Tracking status

Once a request has been lodged, an applicant can revisit the delegation page with their token in order to be provided with a view of the current status of their requests. Any questions regarding the process can be directed to root-mgmt@iana.org.

Review of Delegation Steps

Step 1	After Pre-Delegation testing has been successfully completed, the requester receives unique, secure credentials to initiate a request within the automated Root Zone Management (RZM) System.
Step 2	Requester uses provided credentials and URL to login to the RZM System.

Step 3	Requester provides a contact email address for use with the request. In order to confirm the email address works, a link will be emailed to it, and the requestor should follow the link to proceed.
Step 4	<p>Requester completes form in RZMS including the fields for the following:</p> <p>Manager: Also known as the “Registry” or “Sponsoring Organization”, this is the organization to which responsibility for the domain is delegated.</p> <p>Administrative and Technical Contacts: These are contact points for the domain, responsible for responding to public enquiries concerning the domain, and also for authorising routine updates to the domain.</p> <p>Name servers/DS Records: This is the list of authoritative name servers maintained by the registry to serve the top-level domain, along with the delegation signer records for DNSSEC.</p> <p>Registration Information: Additional information pertaining to the domain, such as the location of its WHOIS server, and a web address where registration can be found.</p>
Step 5	The request will go through the steps described in the “Routine Root Zone Change Request” described below.

Redelegating a generic top-level domain

This is a guide to the generic top-level domain (gTLD) redelegation process. This process is used when the IANA Root Zone Database must be updated to reflect a change in the management of a gTLD. The primary requirement of this process is to have an existing contract with ICANN, which reflects the changes related to the management of the gTLD.

To update the Root Zone Database to reflect a change to the registry operator for a gTLD, the registry must first secure an executed amendment to its Registry Agreement in accordance with its contractual obligations with ICANN. Once completed, a [root zone change request](#) should be filed according to the routine change process defined below.

During processing of the change request, ICANN’s IANA department will confirm with ICANN’s new gTLD team that the request accurately reflects the currently contracted party for the given gTLD. (Note that this process differs from the redelegation process for a country-code top-level domain.) The request will follow the routine change processing steps as defined below. In addition to following the routine steps, a delegation report will be sent to the ICANN Board and the Root Zone Administrator.

Review of Redelegation Steps

Step 1	Complete necessary contract amendments reflecting the change with ICANN
Step 2	<p>Requester submits a root zone change request changing the relevant fields for the TLD in the Root Zone Database with new information. These include:</p> <p>Manager: Also known as the “Registry” or “Sponsoring Organization”, this is the organization to which responsibility for the domain is delegated.</p> <p>Administrative and Technical Contacts: These are contact points for the domain, responsible for responding to public inquiries concerning the domain, and also for authorising routine updates to the domain.</p> <p>Name servers/DS Records: This is the list of authoritative name servers maintained by the registry to serve the top-level domain, along with the delegation signer records for domains that are DNSSEC secured.</p> <p>Registration Information: Additional information pertaining to the domain, such as the location of its WHOIS server, and a web address where registration can be found, can also be listed for a top-level domain.</p> <p>The root zone change request can be initiated through the RZM System if the requester has credentials. If not, the Delegation Request Form (link to form in document) can be used.</p>
Step 3	The request will go through the steps described in the “ Routine Root Zone Change Request ” described below. During processing, Root Zone Management staff will verify that the proposed changes match the current contractual language for the TLD.

Routine Root Zone Change Request Process

Methods for submitting a routine request

An online interface is provided at <https://rzm.iana.org> for TLD managers to submit change requests. ICANN recommends that all TLD managers use this method if possible, as it will guide you through the process, provide immediate online feedback of potential issues, and offer the fastest processing time.

Processing a routine request

Once a request is received, it will go through the following processing steps:

Pre-review	The request is reviewed to ensure it is complete and clear. If it is not clear, clarification is sought from the requestor.
Technical testing	Any changes that are technical in nature will be validated against the relevant technical requirements. Any deficiencies are reported back to the requestor to fix. See: Technical requirements for root zone changes
Contact confirmation	The contact persons for the domain will be asked to agree to the changes.
Manual review	ICANN staff will review the request to ensure it is in accordance with any special obligations and other known regulatory requirements.
Delegation evaluation	If the request is deemed to represent a substantial change of control of the TLD, it is considered a redelegation request, and must be assessed according to the criteria of that process.
Supplemental technical testing	The technical tests are performed a second time, to ensure no new technical issues have arisen during the time the request was being processed
Authorisation	The details of the request are transmitted to the U.S. Department of Commerce for authorisation.

Implementation	Once implementation of a change request is authorised, the changes are implemented in the Root Zone and the Root Zone Database.
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During processing of the request, the requestor will receive email updates relating to the status of the request. At any time, the contacts for the domain can log in to our web interface to check the status of the request.

Delegation Request Form

This is to be used as part of submitting a delegation or redelegation of a country-code top-level domain.

IANA TLD MODIFICATION TEMPLATE 2010-02-17

** This should be completed and submitted to root-mgmt@iana.org.
** In most cases, this can be completed online. For more information
** visit <http://www.iana.org/domains/root/> or contact IANA for
** assistance.

1. Top-Level Domain Name.....:

2. Purpose of change.....:

Manager

- 3a. Organisation Name.....:
- 3b. Street Address.....:
- 3c. City.....:
- 3d. State.....:
- 3e. Postal Code.....:
- 3f. Country Code (2 letter).....:

Administrative Contact

- 4a. Contact Person's Name.....:
- 4b. Job Title.....:
- 4c. Organisation Name.....:
- 4d. Street Address.....:
- 4e. City.....:
- 4f. State.....:
- 4g. Postal Code.....:
- 4h. Country Code (2 letter).....:
- 4i. Phone Number.....:
- 4j. Fax Number.....:
- 4k. Email Address.....:
- 4l. Treat as role acct? (y/n).....:

Technical Contact

- 5a. Contact Person's Name.....:
- 5b. Job Title.....:
- 5c. Organisation Name.....:
- 5d. Street Address.....:
- 5e. City.....:
- 5f. State.....:
- 5g. Postal Code.....:
- 5h. Country Code (2 letter).....:
- 5i. Phone Number.....:
- 5j. Fax Number.....:
- 5k. Email Address.....:
- 5l. Treat as role acct? (y/n).....:

Authoritative Name Server

- 6a. Hostname.....:
- 6b. IP Address(es).....:

Authoritative Name Server (duplicate for additional name servers)

6a. Hostname.....:

6b. IP Address(es).....:

Delegation Signer Record (for DNSSEC signed zones only)

7a. Key Digest.....:

7b. Key Tag.....:

7c. Key Algorithm.....:

7d. Key Digest Type.....:

Delegation Signer Record (duplicate for additional DS records)

7a. Key Digest.....:

7b. Key Tag.....:

7c. Key Algorithm.....:

7d. Key Digest Type.....:

Domain Information

8a. URL for Registration Services...:

8b. WHOIS Server.....:

Special notes (for staff processing change, does not appear publicly)

9. Notes.....:

Technical requirements for authoritative name servers

This article describes the baseline technical conformance criteria for authoritative name servers. These are evaluated by ICANN as the IANA functions operator for changes to delegations in the DNS root zone.

Definitions

1. For purposes of this document, an authoritative name server is a DNS server that has been designated to answer authoritatively for the designated zone, and is being requested to be listed in the delegation. It is recorded by its fully-qualified domain name, potentially along with its IP addresses.
2. Name server tests are completed against each unique tuple of a hostname, an IP address, and a protocol. If a hostname has multiple IP addresses, for example, the tests will be conducted against each IP address.

Detailed requirements

Minimum number of name servers

There must be at least two NS records listed in a delegation, and the hosts must not resolve to the same IP address.

Valid hostnames

The hostnames used for the name servers must comply with the requirements for valid hostnames described in RFC 1123, section 2.1.

Name server reachability

The name servers must answer DNS queries over both the UDP and TCP protocols on port 53. Tests will be conducted from multiple network locations to verify the name server is responding.

Answer authoritatively

The name servers must answer authoritatively for the designated zone. Responses to queries to the name servers for the designated zone must have the "AA"-bit set.

This will be tested by querying for the SOA record of the designated zone with no "RD"-bit set.

Network diversity

The name servers must be in at least two topologically separate networks. A network is defined as an origin autonomous system in the BGP routing table. The requirement is assessed through inspection of views of the BGP routing table.

Consistency between glue and authoritative data

For name servers that have IP addresses listed as glue, the IP addresses must match the authoritative A and AAAA records for that host.

Consistency between delegation and zone

The set of NS records served by the authoritative name servers must match those proposed for the delegation in the parent zone.

Consistency between authoritative name servers

The data served by the authoritative name servers for the designated zone must be consistent.

All authoritative name servers must serve the same NS record set for the designated domain.

All authoritative name servers must serve the same SOA record for the designated domain.

If for operational reasons the zone content fluctuates rapidly, the serial numbers need only be loosely coherent.

No truncation of referrals

Referrals from the parent zone's name servers must fit into a non-EDNS0 UDP DNS packet and therefore the DNS payload must not exceed 512 octets.

The required delegation information in the referral is a complete set of NS records, and the minimal set of requisite glue records. The response size is assessed as a response to a query with a maximum-sized QNAME.

The minimal set of requisite glue records is considered to be:

One A record, if all authoritative name servers are in-bailiwick of the parent zone; and,

One AAAA record, if there are any IPv6-capable authoritative name servers and all IPv6-capable authoritative name servers are in-bailiwick of the parent zone.

Prohibited networks

The authoritative name server IP addresses must not be in specially designated networks that are either not globally routable, or are otherwise unsuited for authoritative name service.

0.0.0.0/8	Not globally routable	RFC 5735
10.0.0.0/8	Not globally routable	RFC 5735
100.64.0.0/10	Not globally routable	RFC 6598
127.0.0.0/8	Not globally routable	RFC 5735

169.254.0.0/16	Not globally routable	RFC 5735
172.16.0.0/12	Not globally routable	RFC 5735
192.0.2.0/24	Not globally routable	RFC 5735
192.88.99.0/24	6to4	RFC 3068
192.168.0.0/16	Not globally routable	RFC 5735
198.18.0.0/15	Not globally routable	RFC 5735
198.51.100.0/24	Not globally routable	RFC 5737
203.0.113.0/24	Not globally routable	RFC 5737
224.0.0.0/3	Not globally routable	RFC 5735
::/128	Not globally routable	RFC 5156
::1/128	Not globally routable	RFC 5156
::FFFF:0:0/96	IPv4 mapped addresses	RFC 4291
2001:2::/48	Not globally routable	RFC 5156

2001::/32	Teredo	RFC 4380
<hr/>		
2001:10::/28	Not globally routable	RFC 5156
<hr/>		
2001:DB8::/32	Not globally routable	RFC 5156
<hr/>		
2002::/16	6to4	RFC 3056
<hr/>		
FC00::/7	Not globally routable	RFC 5156
<hr/>		
FE80::/10	Not globally routable	RFC 5156

No open recursive name service

The authoritative name servers must not provide recursive name service. This requirement is tested by sending a query outside the jurisdiction of the authority with the “RD”-bit set.

Same source address

Responses from the authoritative name servers must contain the same source IP address as the destination IP address of the initial query.

DS record format

Trust anchors must be provided each with the four attributes of a DS record — the key tag, the key algorithm, the digest hash type, and the digest hash. They must be provided with legal values for each of the DS record fields. For the hash digest, ICANN supports two types — SHA1 (value 1), and SHA256 (value 2).

Matching DNSKEY

At the time of the listing request, there must be a DNSKEY that matches the DS record present in the child zone. This will be tested for as part of the implementation of the record. As with most technical conformance criteria for the root zone, if a top-level domain operator has a situation where this is not the case, but this is by design and can be demonstrated not to affect the stability of the TLD or the root zone, it is possible to request that the DS records be listed regardless.

Validation of RRSIG

ICANN must be able to validate the RRSIG records returned for the zone based upon the DS record set that has been provided for the root zone. We test this by querying the apex SOA for the top-level domain with the DO bit set, and validating the SOA record against the proposed DS resource set.

Useful References

For more information on some of the key DNS technical concepts referenced by these technical tests, please look at the following references:

- Domain Names — Concepts and Facilities (RFC 1034)
- Domain Names — Implementation and Specification (RFC 1035)
- Preventing Use of Recursive Nameservers in Reflector Attacks (RFC 5358)
- Operational Considerations and Issues with IPv6 DNS (RFC 4472)
- Extension Mechanisms for DNS (EDNS0) (RFC 2671)
- DNS Referral Response Size Issues
- DNS Transport over TCP - Implementation Requirements (RFC 5966)
- IANA IPv6 Special Purpose Address Registry
- Special-use IPv6 Addresses (RFC 5156)
- Special-use IPv4 Addresses (RFC 5735)