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**ZA Central Registry, NPC**

9  
 10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
 11 **COUNTY OF LOS ANGELES – CENTRAL**

12  
 13 DOTCONNECTAFRICA TRUST, a  
 Mauritius Charitable Trust,

14  
 15 Plaintiff,

16 v.

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

20 Defendants.

CASE NO. BC607494

Assigned to Hon. Robert B. Broadbelt III,  
 Dept. 53

**DECLARATION OF DAVID  
 KESSELMAN IN SUPPORT OF  
 INTERVENOR ZA CENTRAL  
 REGISTRY, NPC’S OPPOSITION TO  
 PLAINTIFF DOTCONNECTAFRICA  
 TRUST TO TAX COSTS OF  
 INTERVENOR ZA CENTRAL  
 REGISTRY, NPC**

*[Filed concurrently with Opposition to  
 Motion by Plaintiff to Tax Costs]*

Date: January 15, 2020  
 Time: 8:30 a.m.  
 Location: Dept. 53

1 DECLARATION OF DAVID W. KESSELMAN

2 I, David W. Kesselman, hereby declare as follows:

3 1. I am a partner of Kesselman Brantly Stockinger LLP and counsel to Intervenor  
4 ZA Central Registry, NPC (“ZACR”). I have personal knowledge of the matters set forth herein  
5 and am competent to testify as to those matters. I make this declaration in support of ZACR’s  
6 Opposition to Motion for Plaintiff DotConnectAfrica Trust to Tax Costs of Intervenor.

7 2. Attached hereto as **Exhibit A** is a true and correct copy of the United States  
8 District Court’s October 19, 2016 order granting in part and denying in part ZACR’s motion to  
9 intervene. (*DotConnectAfrica Trust v. Internet Corporation for Assigned Names and Numbers*,  
10 2:16-cv-00862-RGK-JC, C.D. Cal. Oct. 19, 2016). This order was docketed in this action on  
11 October 25, 2016, as part of Notice of Remand, DE# 324.

12 3. After this action was remanded to this Court, ZACR actively participated in the  
13 litigation, including briefing and arguing against DCA’s motion for a preliminary injunction,  
14 propounding and responding to discovery, participating in depositions, and preparing to go to  
15 trial. ZACR was prepared to fully participate in the trial scheduled for August 22, 2018, the date  
16 set for the Phase II trial.

17 4. The only costs claimed by ZACR in connection with the depositions of witnesses  
18 Fadi Chehade, Mark McFadden, Mike Silber, Reuben Brigety, Stephen Crocker, and Trang  
19 Nguyen were the amounts paid to the relevant court reporting services to obtain copies of the  
20 transcripts. Attached hereto as **Exhibit B** are true and correct copies of the invoices for these  
21 transcripts.

22 5. ZACR also seeks as costs the amounts paid to the relevant court reporting  
23 services to obtain copies of the transcripts of the depositions of Erasmus Mwencha and  
24 Sophia Bekele. Transcript costs are the only costs ZACR seeks for the depositions of Ms.  
25 Bekele (DCA’s principal). In its memorandum of costs, ZACR inadvertently listed the invoice  
26 date rather than the deposition date for Ms. Bekele’s September 6, 2017 deposition. Attached  
27 hereto as **Exhibit C** are true and correct copies of the invoices for the Mwencha and Bekele  
28 transcripts.

1           6.       Allegations of a conspiracy among ZACR, ICANN, and the African Union  
2 Commission (“AUC”) were central to DCA’s claims in this action. Because Mr. Mwencha, the  
3 former Deputy Chairperson of the AUC, resides in Africa – beyond the subpoena power of this  
4 Court – it was necessary for me to travel to Washington, D.C. to attend the deposition in person.  
5 The importance of Mr. Mwencha’s testimony to ZACR’s interests in this action is demonstrated  
6 by the fact that ZACR designated excerpts of Mr. Mwencha’s deposition testimony for use at  
7 trial. Attached hereto as **Exhibit D** is a true and correct copy of Intervenor ZA Central Registry  
8 NPC’s Deposition Designations.

9           7.       For the deposition of Mr. Mwencha, ZACR claimed its costs for me (its counsel)  
10 to travel to Washington, D.C. to participate at the deposition and the costs paid to the court  
11 reporting service to obtain the transcript of the deposition. Travel costs included costs for airline  
12 travel, taxi and airport parking costs, and hotel costs. Attached hereto as **Exhibit E** is a true and  
13 correct copy of a credit card statement showing these costs.

14           8.       I traveled to South Africa, to defend the depositions of ZACR witnesses Neil  
15 Dundas and Lucky Masilela. These depositions were noticed by DCA. Although DCA noticed  
16 the depositions for Cape Town, South Africa, ZACR’s headquarters is closer to Johannesburg,  
17 South Africa. I traveled to Johannesburg on business class because the travel time to South  
18 Africa (via London) exceeded 20 hours. The costs of my business class plane ticket to  
19 Johannesburg did not exceed the cost of a comparable ticket to Cape Town, and ZACR is not  
20 seeking any costs associated with my stay in Johannesburg or travel between Johannesburg and  
21 Cape Town. ZACR is only seeking to recover the cost of my flights between California and  
22 South Africa and the cost of five nights of hotel accommodation in Cape Town. Five nights of  
23 hotel accommodation is reasonable given the distance traveled, the need to adjust to the 10-hour  
24 time change, and to defend the depositions of Mr. Dundas and Mr. Masilela, who both testified  
25 in their individual capacities and as persons most knowledgeable for ZACR – again, in response  
26 to depositions noticed by DCA. Attached hereto as **Exhibit F** is a true and correct copy of  
27 receipts for my travel costs.  
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