

**IN THE MATTER OF AN INDEPENDENT REVIEW PROCESS BEFORE THE  
INTERNATIONAL CENTRE FOR DISPUTE RESOLUTION**

**ICDR Case No. 50 117 T 1083 13**

DotConnectAfrica Trust, )  
                            )  
Claimant,                )  
                            )  
v.                        )  
                            )  
Internet Corporation for Assigned Names and Numbers, )  
                            )  
Respondent.             )

**REQUEST FOR EMERGENCY ARBITRATOR AND  
INTERIM MEASURES OF PROTECTION**

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## I. INTRODUCTION

1. Pursuant to ICDR Rules 37 and 21, DotConnectAfrica Trust (“DCA”) hereby requests the appointment of an Emergency Arbitrator to decide DCA’s request for interim measures of protection preventing the Internet Corporation for Assigned Names and Numbers (“ICANN”) from completing the delegation of rights to the .AFRICA generic top-level domain name (“gTLD”) to a third party pending the outcome of an ICANN-created accountability procedure known as an Independent Review Process (“IRP”), which DCA invoked in October 2013.<sup>1</sup>
2. The purpose of the IRP is to resolve a dispute arising from ICANN’s failure to abide by its Bylaws, Articles of Incorporation and applicable principles of international law in its processing of DCA’s application for rights to administer the .AFRICA gTLD. ICANN wrongfully rejected DCA’s application based on complaints raised by the partner of the only other applicant for .AFRICA, in contravention of its own procedures and the applicable law. DCA has requested a declaration from the IRP Panel that ICANN violated its Articles of Incorporation and Bylaws by not allowing DCA’s application to complete the full gTLD review process so that it can compete on an equal footing for the rights to the .AFRICA gTLD. DCA

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<sup>1</sup> See DCA’s Amended Notice of IRP and exhibits thereto, on file with the ICDR; references to numbered exhibits refer to the exhibits submitted with DCA’s Amended Notice. Although the ICDR Supplementary Procedures for Internet Corporation for Assigned Names and Numbers Independent Review Process (“Supplementary Procedures”) expressly exclude Article 37 from applying in the context of an IRP, on 25 March 2014, ICANN’s counsel, Mr. Jeffrey LeVee, informed the ICDR and DCA for the first time that Article 37’s emergency arbitrator procedures could be invoked because of ICANN’s failure to put in place a standing panel to hear requests for emergency relief, as required by ICANN’s Bylaws and the Supplementary Procedures. See Email from Jeffrey LeVee to Carolina Cardenas-Soto (25 March 2014), Annex A hereto. Prior to Mr. LeVee’s 25 March email, ICANN’s consent to the application of Article 37 is stated nowhere. Indeed, the ICDR itself did not believe that Article 37 applied in the IRP. See Email from Carolina Cardenas-Soto to the parties (25 March 2014) (“[P]lease be advised that there is no Standing Panel yet in place, in addition, Article 37 of the International Rules does not apply, therefore the only option regarding interim measures at this time is to make the application to the IRP panel once constituted.”), Annex B hereto. Nonetheless, on 26 March, DCA accepted ICANN’s consent to the availability of the emergency arbitrator. Email from Marguerite Walter to Carolina Cardenas-Soto (26 March 2014), Annex C hereto.

has also requested that the IRP Panel recommend that DCA’s application be permitted to proceed. Any such declaration and recommendation would become moot if ICANN completed the gTLD delegation process .AFRICA to DCA’s competitor before DCA can be fully heard in the IRP.

3. 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.<sup>2</sup> ICANN, however, summarily refused to do so.<sup>3</sup> On 23 March 2014, DCA became aware that ICANN intended to sign an agreement with DCA’s competitor (a South African company called ZA Central Registry, or “ZACR”) on 26 March 2014 in Beijing.<sup>4</sup> This contract (or “registry agreement”), once signed, would be the first step toward delegating the rights to .AFRICA to ZACR. Indeed, ZACR’s own website announces its intention to proceed to delegation by early April and to make the .AFRICA gTLD operational by May 2014.<sup>5</sup>

4. 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.<sup>6</sup> Instead, according to ICANN’s website, ICANN ***signed its agreement with ZACR the***

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<sup>2</sup> Letter from Arif Ali to Jeffrey LeVee (22 January 2014) (requesting that ICANN immediately stay processing of all applications for .AFRICA until conclusion of IRP in order to prevent irreparable damage to DCA and IRP process), Annex D hereto.

<sup>3</sup> Email from Jeffrey LeVee to Arif Ali (5 February 2014), Annex E hereto.

<sup>4</sup> Email from Alice Munyua (23 March 2014), Annex F hereto.

<sup>5</sup> Countdown to launch, ZACR, at <https://registry.net.za/launch/> (indicating that .africa will launch with the other ZACR gTLDs on May 1, meaning that all pre-delegation testing and final delegation are expected in advance of May 1, 2014), a screenshot of which is Annex G hereto (taken 28 March 2014). *See also*, Draft – New gTLD Program – Transition to Delegation, New gTLD Guidebook, Module 5, page 5-16, Annex H hereto.

<sup>6</sup> Letter from Arif Ali to Jeffrey LeVee (23 March 2014) (indicating that signature of the Registry Agreement on 26 March, as planned by ICANN, would constitute a violation of DCA’s rights and compromise the IRP proceeding), Annex I hereto; *see also*, Letter from Arif Ali to Neil Dundas, Director,

*very next day, two days ahead of plan, on 24 March instead of 26 March.*<sup>7</sup> 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 ignore its obligation to participate in this proceeding in good faith.<sup>8</sup> In a particularly cynical maneuver, ICANN for the first time informed DCA that it would accept the application of Article 37 to this proceeding, contrary to the express provisions of the Supplementary Procedures ICANN has put in place for the IRP Process.<sup>9</sup>

5. DCA is entitled to an accountability proceeding with legitimacy and integrity, with the capacity to provide a meaningful remedy. Having created the IRP review process, ICANN is compelled by its Bylaws, Articles of Incorporation, rules and procedures to participate in that process in good faith. In addition, pursuant to its Articles of Incorporation, ICANN is required to comply with local law and international law, which further and independently ensures DCA’s right to such a proceeding. 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

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ZA Central Registry (23 March 2014) (notifying ZACR of the IRP proceeding between ICANN and DCA and informing ZACR that ICANN’s signature of the Registry Agreement would violate DCA’s rights and compromise the IRP proceeding), Annex J hereto.

<sup>7</sup> See ICANN official announcement of the .AFRICA Registry Agreement (24 March 2014) (stating that “[o]n 24 March 2014, ICANN and ZA Central Registry NPC trading as Registry.Africa entered into a Registry Agreement under which ZA Central Registry NPC trading as Registry.Africa operates the .africa top-level domain.”), at <http://www.icann.org/en/about/agreements/registries/africa>, a screenshot of which is Annex K hereto.

<sup>8</sup> Letter from Jeffrey LeVee to Arif Ali (24 March 2014) (informing DCA that ICANN has already proceeded to sign a Registry Agreement with ZACR), Annex L hereto.

<sup>9</sup> Email from Jeffrey LeVee to Carolina Cardenas-Soto (25 March 2014), Annex A hereto.

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.

6. It is clear from the developments of the past five days that ICANN does not consider itself bound to respect DCA's rights or the integrity of this proceeding absent an order from a court or an IRP panel. However, the Panel has not yet been constituted and may not be constituted for some time. Therefore, and in order to ensure the possibility of a remedy resulting from this IRP, protect the procedural integrity of the IRP, and preserve DCA's right under international law to the status quo and to non-aggravation of this dispute, DCA respectfully requests that the Emergency Arbitrator grant the following interim relief:<sup>10</sup>

- a. An order ***compelling ICANN to refrain from any further steps towards 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 ZA Central Registry or any of its officers or agents;
- b. An order ***compelling ICANN to disclose all steps taken thus far towards delegating the .AFRICA gTLD*** to ZACR, including but not limited to the date, location and participants who took part in the signing of the Registry Agreement that ICANN signed with ZACR, dates and descriptions of the events leading from the conclusion of ZACR's Initial Evaluation to the signature of the Registry Agreement and the dates and descriptions of all steps towards delegation taken after the signing of the Registry Agreement up until the date of any order issued by the Emergency Arbitrator; *and*
- c. An order ***compelling ICANN to disclose a truthful approximation of the dates and descriptions of events that would lead from the signing of the Registry Agreement until delegation of the .AFRICA gTLD in the absence of an order*** compelling ICANN to cease processing the ZACR application pending resolution of the IRP.

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<sup>10</sup> In the circumstances, the emergency relief requested is the only relief that DCA can now seek. Had DCA been notified by ICANN earlier of ICANN's willingness to reinstitute the availability of Article 37, DCA could have sought to enjoin the signing of the .AFRICA registry agreement through the emergency arbitrator process.

## **II. BACKGROUND OF THE DISPUTE**

7. This dispute concerns rights at issue in ICANN's program to introduce new Top-level Domains ("TLDs") for the Internet. TLDs appear in the domain names as the string of letters – such as ".com", ".gov", ".org", and so on – following the rightmost "dot" in domain names. ICANN is a non-profit California corporation that is responsible for administering certain aspects of the Internet's domain name system ("DNS").<sup>11</sup> ICANN delegates responsibility for the operation of each TLD to a registry operator, which contracts with consumers and businesses that wish to register Internet domain names in such TLD.<sup>12</sup> ICANN is subject to international and local law,<sup>13</sup> and is required to achieve its mission in conformity with the principles expressly espoused in its Bylaws and Articles of Incorporation, including the principles of transparency,

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<sup>11</sup> See ICANN Bylaws, Art. I [Ex. C-10].

<sup>12</sup> There are several types of TLDs within the DNA. The most prevalent TLDs are country-code TLDs ("ccTLDs") and gTLD's. The former, ccTLDs, are two-letter TLDs allocated to countries, usually based upon their two-letter ISO codes. In contrast, open gTLDs are privately managed and may include any combination of three or more letters. The original gTLDs were .com, .net, .org, .gov, .mil, and .edu. The first three are open gTLDs and the last three listed are closed gTLDs. Certain categories of potential gTLDs are protected, for example combinations of letters that are similar to any ccTLD and gTLDs on the reserve list included in the new gTLD Guidebook. Under the ICANN New gTLD Program, any "established corporations, organizations or institutions in good standing" may apply for gTLDs. In addition, a new gTLD may be a "community-based gTLD", which is "a gTLD that is operated for the benefit of a clearly delineated community," or fall under the category "standard gTLD", which "can be used for any purpose consistent with the requirements of the application and evaluation criteria, and with the registry agreement." See gTLD Applicant Guidebook (Version 2012-06-04), Module 1, 1.2.1 "Eligibility" and 1.2.3.1 "Definitions" [Ex. C-11].

<sup>13</sup> See ICANN Articles of Incorporation, Art. 4 [Ex. C-9]; see also *Declaration of the Independent Review Panel in the matter of an Independent Review Process between ICM Registry, LLC and ICANN*, ICDR Case No. 50 117 T 00224 08 (19 February 2010) para. 152 at 70 [Ex. C-12], in which the Panel concluded that "the provision of Article 4 of ICANN's Articles of Incorporation prescribing that ICANN 'shall operate for the benefit of the Internet community as a whole, carrying out its activities in conformity with relevant principles of international law and applicable international conventions and local law,' requires ICANN to operate in conformity with relevant general principles of law (such as good faith) as well as relevant principles of international law, applicable international conventions, and the law of the State of California."

fairness, accountability, and promotion of competition with respect to the Internet's domain name system.<sup>14</sup>

8. In 2012, ICANN initiated a New gTLD Internet Expansion Program to add new generic top-level domain names ("gTLDs") to the Internet. This program represents the first time that ICANN has allowed Internet stakeholders to apply for the creation and administration of new generic top-level domain names since 2003. It has been in the planning stages since 2005 and is the result of considerable dialogue and debate among various Internet stakeholders around the world over several years.<sup>15</sup> Extensive input from experts in the Generic Names Supporting Organization ("GNSO") and four years of public comments and revisions created an expectation that the New gTLD Program would be unbiased and predictable, taking its legitimacy from the years of careful development and the participation of stakeholders and the public. The program was expected to be able to run on its own through predictable and approved examination functions laid out in the New gTLD Program Guidebook and executed by evaluation panels of experts that were entirely separate from the ICANN Board. Because the Internet is a global resource, it is vital that the new gTLD process be carried out in accordance with the rules and procedures that Internet stakeholders so carefully negotiated with ICANN.

9. DCA is one of the applicants participating in the new gTLD expansion program. It is a non-profit organization established under the laws of the Republic of Mauritius on 15 July 2010,

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<sup>14</sup> ICANN Bylaws, Art. I, Section 2, "Core (Council of Registrars) Values" [Ex. C-10].

<sup>15</sup> According to the website of the new gTLD program, the Generic Names Supporting Organization, a Supporting Organization that provides advice to the ICANN Board, conducted a study from 2005-2007 and produced recommendations to the ICANN Board on implementing a new gTLD program. Based upon the resulting report, ICANN developed the first version of the New gTLD Guidebook in 2008. The Guidebook has gone through several iterations, including at least 5 separate versions, all of which were available for public comment, until the final Applicant Guidebook based on the GNSO recommendations and public comments was produced in June 2012. New Generic Top Level Domains, "About the Program," at <http://newgtlds.icann.org/en/about/program>.

with its principal place of business in Nairobi, Kenya.<sup>16</sup> In 2012, DCA applied to ICANN for the delegation of the .AFRICA gTLD, an Internet resource that is available for delegation under ICANN’s New gTLD Program.<sup>17</sup> Its application was supported by letters of endorsement by the United Nations Economic Commission for Africa and at one stage, the African Union Commission itself.<sup>18</sup>

10. The dispute arises out of ICANN’s breaches of its Bylaws, Articles of Incorporation, and the applicable law and rules in its administration of applications for the .AFRICA gTLD, and specifically, ICANN’s wrongful decision that DCA’s application for .AFRICA should not proceed because of objections raised by the African Union Commission (“AUC”), the partner of DCA’s only competitor for .AFRICA, ZA Central Registry NPC trading as Registry.Africa (“ZACR”).<sup>19</sup> ZACR applied for .AFRICA on the invitation of the AUC, the administrative wing of the African Union, an intergovernmental organization.

11. AUC applied for .AFRICA with ZACR after a failed attempt to reserve the domain name for the exclusive use of African governments.<sup>20</sup> Acting on ICANN’s advice, the AUC set out to achieve the same result through the mechanism of ICANN’s Governmental Advisory Committee

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<sup>16</sup> See Mauritius Revenue Authority response to DCA Trust Application for Registration as a Charitable Trust, 15 July 2010 [Ex. C-5].

<sup>17</sup> See New gTLD Application Submitted to ICANN by: DotConnectAfrica Trust (“DCA New gTLD Application”) [Ex. C-8].

<sup>18</sup> See DCA’s Amended Notice of IRP, para. 17.

<sup>19</sup> ZACR was previously called Uniforum, and submitted its application for .AFRICA under that name. See Application Update History, Application ID: 1-1243-89583, at <https://gtldresult.icann.org/applicationstatus/applicationchangehistory/1184>.

<sup>20</sup> Communiqué, African Union Commission, African ICT Ministerial Round-table on 42nd Meeting of ICANN, 11 October 2011, p. 4 (Requesting that ICANN “[i]nclude (.Africa, .Afrique, .Afrikia, ...), and its representation in any other language on the Reserved Names List in order to enjoy the level of special legislative protection, so to be managed and operated by the structure that is selected and identified by the African Union”), Annex M hereto.

(“GAC”).<sup>21</sup> The GAC is composed of representatives of national governments, the European Commission and the African Union Commission. Its role is to provide advice to the ICANN Board on ICANN’s activities as they relate to public policy interests and concerns.<sup>22</sup> Its role does not extend to furthering the position of applicants for new gTLDs.

12. Nevertheless, in November 2012, the AUC filed an Early Warning through the GAC raising objections to DCA’s application for .AFRICA. The AUC “express[ed] its objection” to DCA’s application, arguing that DCA did not have “the requisite minimum support from African governments”<sup>23</sup> and that its application “constitut[ed] 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.”<sup>24</sup>

13. AUC’s Early Warning was accompanied by nearly identically worded Early Warnings allegedly coming from 16 African governments were also submitted. None of these documents were dated or signed; some still had empty blanks and highlighted text, showing that they were form documents presumably prepared by AUC.<sup>25</sup>

<sup>21</sup> See Letter from ICANN CEO Stephen Crocker to Elham M. A. Ibrahim Commissioner, Infrastructure and Energy Commission for the Operation of DotAfrica (8 March 2012), p. 2-3 (advising the AUC that it would be impermissible to reserve .AFRICA and related strings for the AUC; however the AUC may still have “prominent role in determining the outcome of any application for these top-level domain strings”) [Ex. C-24].

<sup>22</sup> ICANN Bylaws, Art. XI, Section 2, para. 1(a) [Ex. C-10].

<sup>23</sup> GAC Early Warning – Submittal Africa-AUC-42560, dated 20 November 2012, p. 1 [Ex. C-33].

<sup>24</sup> *Id.* Several African governments submitted identically worded early warnings in coordination with the AUC [Ex. C-34].

<sup>25</sup> See, e.g., GAC Early Warning – Submittal \_\_\_\_\_ and cover Letter from Haruna Iddrisu, MP of the Republic of Ghana to Dr. Elham M.A. Ibrahim Commissioner, Infrastructure and Energy, African Union (including highlighted text “Republic of Ghana” on the GAC Advice and asserting in cover letter that Mr. Iddrisu “conveys support for the AUC’s mandate to apply for the DOTAFRICA (.AFRICA) generic top-level domain”) [Ex. C-34].

14. DCA alerted ICANN to AUC’s conflict of interest regarding the .AFRICA gTLD, explaining that the AUC was effectively “both an ‘endorser’ and ‘co-applicant’ for the name string” of .AFRICA.<sup>26</sup> DCA also pointed out in its response that at least one of the countries supposedly objecting to its application had officially endorsed that very same application.<sup>27</sup> ICANN did not respond.

15. In April 2013, and apparently in response to AUC’s Early Warning, the GAC issued advice to ICANN that the DCA application should not be allowed to proceed. The GAC represented this as so-called “consensus” advice representing the unanimous views of GAC members.<sup>28</sup> However, this was untrue, since the GAC Advisor for Kenya, Sammy Buruchara, had informed the GAC in writing before the vote on .AFRICA that “Kenya does not wish to have a GAC advise [sic] on DotConnect Africa Application for .africa delegation.”<sup>29</sup> DCA protested, writing to ICANN and attaching emails from Mr. Buruchara demonstrating his objections to the advice against DCA’s application. Once again, ICANN ignored DCA’s protests and refused to allow DCA’s application for .AFRICA to proceed.

16. DCA subsequently filed a Request for Reconsideration, which ICANN rejected.<sup>30</sup> In October 2013, DCA filed a Notice of IRP, which it amended in January 2014.<sup>31</sup> DCA requests a

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<sup>26</sup> DCA Response to ICANN GAC Early Warning Advice, 5 December 2012, p. 4 (objecting that AUC was “both an ‘endorser’ and ‘co-applicant’ for the name string” of dotAfrica) [Ex. C-35].

<sup>27</sup> DCA Response to ICANN GAC Early Warning Advice, 5 December 2012 p. 1 (noting that Kenya had endorsed DCA’s application, but had also submitted an Early Warning, without explanation) [Ex. C-35]. See Kenya Ministry of Information and Communications Letter of Endorsement dated 7 August 2012 [Ex. C-18].

<sup>28</sup> GAC Beijing Communiqué, p. 3 [Ex. C-43].

<sup>29</sup> GAC Advice Response form for Applicants, dated 8 May 2013, p. 12 (containing screen shot of email) [Ex. C-41].

<sup>30</sup> Recommendation of the board Governance Committee (BGC), Reconsideration Request 13-4 (1 August 2013) [Ex. Cl-47].

declaration from the Panel finding ICANN in breach of its Bylaws, Articles of Incorporation, the rules set forth for the new gTLD program, and the applicable law, and recommending that it allow DCA’s application to proceed through the application process.<sup>32</sup>

### **III. STANDARD FOR INTERIM MEASURES OF PROTECTION UNDER ARTICLE 21**

17. Article 21 of the ICDR Rules grants broad powers to the Panel and the Emergency Arbitrator to “take whatever interim measures it deems necessary.”<sup>33</sup> In order to demonstrate entitlement to interim relief on an emergency basis, a party must indicate the relief requested, explain why it is entitled to the requested interim relief, and demonstrate why the relief is required on an emergency basis.<sup>34</sup> Little other guidance on the applicable standards is available under the ICDR Rules, and the orders and awards of Emergency Arbitrators under Art. 37 are not public.

18. However, it is well settled under international law, as reflected across numerous dispute settlement regimes, that interim emergency relief is appropriate where the decision-maker applied to has *prima facie* jurisdiction over the parties and the dispute; the requested interim

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<sup>31</sup> DCA’s Amended Notice of IRP, on file with the ICDR.

<sup>32</sup> DCA’s Amended Notice of IRP at para. 48.

<sup>33</sup> ICDR Rules, Art. 21(1) (“At the request of any party, the tribunal may take whatever interim measures it deems necessary, including injunctive relief and measures for the protection or conservation of property”); *see also*, ICDR Rules, Art. 37(5) (“The emergency arbitrator shall have the power to order or award any interim or conservancy measure the emergency arbitrator deems necessary, including injunctive relief and measures for the protection or conservation of property”). *C.f.*, Convention on the Settlement of Investment Disputes between States and Nationals of Other States [Washington Convention], Art. 47 (“Except as the parties otherwise agree, the Tribunal may, if it considers that the circumstances so require, recommend any provisional measures which should be taken to preserve the respective rights of either party”); ICSID Arbitration Rules, Rule 39(1) (“At any time after the institution of proceeding, a party may request that provisional measures for the preservation of its rights be recommended by the Tribunal. The request shall specify the rights to be preserved, the measures the recommendation of which is requested and the circumstances that require such measures”).

<sup>34</sup> ICDR Rules, Art. 37(2).

relief protects an existing right; the interim relief is necessary; and it is urgent.<sup>35</sup> We address each of these factors in turn below.

### **1. The Emergency Arbitrator has Prima Facie Jurisdiction to Award Interim Relief**

19. Under Article 37 of ICDR Rules, an Emergency Arbitrator may be appointed to grant interim relief after a Request for Arbitration has been filed but before a tribunal has been constituted.<sup>36</sup> Although the Supplementary Procedures which govern the IRP proceeding exclude the application of Article 37,<sup>37</sup> on 24 March 2014, ICANN expressly consented to the application of Article 37 in this proceeding.<sup>38</sup> Given the mutual consent of the parties, the fact that DCA has filed an Amended Notice of IRP and the fact that ICANN did not make any jurisdictional objections in its reply to DCA's Notice, the Emergency Arbitrator has *prima facie* jurisdiction to administer interim relief on an emergency basis, including injunctive relief.<sup>39</sup>

<sup>35</sup> See, e.g., *Burlington Resources Inc. and others v. Republic of Ecuador and Empresa Estatal Petroleos del Ecuador*, ICSID Case No. ARB/08/5, Procedural Order No. 1 on Burlington Oriente's Request for Provisional Measures, 29 June 2009 (interpreting the interim relief provisions under the Washington Convention and the ICSID Rules and laying out the four-part test).

<sup>36</sup> ICDR Rules, Art. 37 (2) ("A party in need of emergency relief prior to the constitution of the tribunal shall notify the administrator and all other parties in writing of the nature of the relief sought and the reasons why such relief is required on an emergency basis. The application shall also set forth the reasons why the party is entitled to such relief.").

<sup>37</sup> Supplementary Procedures, Art. 12 ("Article 37 of the Rules will not apply") [Ex. C-3]; see also Email from Carolina Cardenas-Soto to Marguerite Walter (25 March 2014) ("Further to our communication below, please be advised that there is no Standing Panel yet in place, in addition, Article 37 of the International Rules does not apply, therefore the only option regarding interim measures at this time is to make the application to the IRP panel once constituted").

<sup>38</sup> Email from Jeffrey LeVee to Carolina Cardenas-Soto (25 March 2014) ("Given that there is no Standing Panel yet in place, ICANN does not have any objection to the ICDR appointing a neutral and allowing that neutral to consider an application from DCA for emergency relief, if DCA chooses to submit such an application").

<sup>39</sup> ICDR Rules, Art. 37(5) ("The emergency arbitrator shall have the power to order or award any interim or conservancy measure the emergency arbitrator deems necessary, including injunctive relief and measures for the protection or conservation of property").

## **2. DCA is Entitled to the Relief in order to Protect the Rights at Issue in the IRP**

20. DCA is entitled to an order preventing ICANN from further alienating the .AFRICA gTLD through delegation, as well as orders compelling ICANN to provide information as to the status of the delegation of .AFRICA, in order to enable DCA to safeguard its right to seek relief in the IRP. DCA asserts three distinct rights, all of which are recognized under international law.

21. *First*, DCA is entitled to a dispute resolution process that is capable of providing a meaningful remedy. Under general principles of law, which form part of international law,<sup>40</sup> a party to an international dispute resolution process such as this one has a right to preserve the “effectivity of a possible future award.”<sup>41</sup> When a party enters into a dispute resolution proceeding that is equipped to render a type of relief, that party has a right to protect the object or the ability for that relief to eventually be rendered. At the most basic level, in a dispute over ownership of an asset, a petitioner has a right to ensure that the respondent does not dispose of the asset before the conclusion of the proceeding.<sup>42</sup>

22. In this case, the purpose of the IRP is to allow for an independent review of the ICANN Board’s decisions to remove DCA from competition for .AFRICA in breach of ICANN’s Bylaws, Articles of Incorporation, rules and procedures. DCA filed the IRP in order to address

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<sup>40</sup> See Art. 38 of the Statute of the International Court of Justice (identifying sources of international law). As noted above, a previous IRP Panel has determined that ICANN is bound by international law, including general principles of law such as good faith.

<sup>41</sup> See, e.g., *Burlington Resources*, para. 71 (“Thus, at least *prima facie*, a right to . . . the protection of the effectivity of a possible future award” could exist under the circumstances). The right to an effective remedy is a general principle of international law, Universal Declaration of Human Rights, Art. 8 (“Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law”).

<sup>42</sup> See, e.g., UNCITRAL Arbitration Rules, Art. 26 (2010) (“An interim measure is any temporary measure by which, at any time prior to the issuance of the award by which the dispute is finally decided, the arbitral tribunal orders a party, for example and without limitation, to.... (c) Provide a means of preserving assets out of which a subsequent award may be satisfied”).

ICANN's breaches and to obtain a declaration recommending that ICANN permit DCA to compete for .AFRICA. If ICANN succeeds in delegating .AFRICA to a third party before the IRP can conclude, it will unilaterally deprive DCA of the remedy it seeks in the IRP, rendering this proceeding a meaningless exercise.

23. **Second**, DCA is entitled to a dispute resolution process that retains its integrity intact, including a meaningful opportunity to be heard by a panel that is empowered to evaluate the claims and evidence at issue without one party unilaterally taking actions to render the dispute resolution process moot. The delegation of .AFRICA to a third party while this proceeding is pending would prejudice the IRP process itself.<sup>43</sup> If left unchecked, ICANN would effectively deprive the Tribunal of its authority to resolve this dispute according to the IRP process that ICANN itself created. Notably, ICANN has refused to stay its efforts to delegate .AFRICA because it believes DCA's case is too "weak" to justify any delay in delegation.<sup>44</sup> But ICANN is not entitled to substitute its own assessment of the merits of DCA's claims for that of the Tribunal, as it seeks to do by delegating .AFRICA to ZACR before this proceeding is completed.

24. Moreover, until a public announcement was made by someone outside of ICANN concerning ICANN's plan to sign a contract with ZACR on 26 March in Beijing, it was impossible for DCA to ascertain the status of the only other application competing for .AFRICA. Despite ICANN's ostensible commitment to transparency, it posts minimal information on its

<sup>43</sup> See, e.g., UNCITRAL Arbitration Rules, Art. 26 (2010) ("An interim measure is any temporary measure by which, at any time prior to the issuance of the award by which the dispute is finally decided, the arbitral tribunal orders a party, for example and without limitation, to....(b) Take action that would prevent, or refrain from taking action that is likely to cause...(ii) prejudice to the arbitral process itself").

<sup>44</sup> See Letter from Jeffery LeVee to Arif Ali (5 February 2014) (justifying ICANN's refusal to comply with DCA's demand to stay processing of the .AFRICA applications until the conclusion of the IRP on ICANN's independent and self-serving opinion that DCA's case is "weak").

website concerning that status of its review of applications for new gTLDs.<sup>45</sup> In light of the complete lack of transparency with which gTLDs are delegated, without an order obligating ICANN to provide this information to DCA and the Panel, there will be no way of ensuring that ICANN respects the integrity of this process and DCA's right to be heard by refraining from delegating .AFRICA before this process has come to completion.

25. ***Third and finally***, DCA is entitled to maintenance of the *status quo* that existed going into the IRP, as well as the non-aggravation of the dispute between DCA and ICANN.<sup>46</sup> It is a long-recognized principle of international law that parties engaged in a dispute resolution must not proceed outside of the mechanism to alter the *status quo* so as to infringe upon the rights of the other party.<sup>47</sup> The *status quo* includes the relationship between the parties and the rights that each party had when the dispute was submitted for resolution.<sup>48</sup> Interim relief may compel the parties not only to stay any action that would upset the *status quo*, but in some cases, tribunals

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<sup>45</sup> The only information available on the ICANN website about ZACR's application for .AFRICA consists of a page describing ZACR's application status as "In PDT." Application Details, Application ID: 1-1243-89583, at <https://gtldresult.icann.org/applicationstatus/applicationdetails/1184>, a screenshot of which dated 28 March 2014 is Annex N hereto.

<sup>46</sup> See, e.g., *Burlington Resources*, para. 60 (indicating that the "general right to the status quo and to the non-aggravation of the dispute" are "self-standing rights," and when they are threatened, a party is entitled to protection of those rights regardless of its rights according to the substantive merits of the dispute); see also *Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica v. Nicaragua)*, Provisional Measures, Order of 8 March 2011, I.C.J. Reports 2011, para. 62.

<sup>47</sup> *Electricity Company of Sofia and Bulgaria (Belgium v. Bulgaria)*, Judgment of 5 December 1939, PCIJ series A/B, No 79, p.199 (outlining the "principle universally accepted by international tribunals...that the parties to a case must abstain from any measure capable of exercising a prejudicial effect in regard to the execution of the decision to be given and, in general, not allow any step of any kind to be taken which might aggravate or extend the dispute"); see, e.g., UNCITRAL Arbitration Rules, Art. 26 (2010) ("An interim measure is any temporary measure by which, at any time prior to the issuance of the award by which the dispute is finally decided, the arbitral tribunal orders a party, for example and without limitation, to: (a) Maintain or restore the status quo pending determination of the dispute").

<sup>48</sup> See *Burlington Resources* at paras. 62, 67 (analyzing Electricity Company of Sophia and indicating that the status quo protected by the right is the status quo that exists at the time the dispute resolution proceeding commences).

have ordered a party to reverse action taken that upset the *status quo*.<sup>49</sup> In fact, it is in the interest of neither party to “aggravate or exacerbate” the dispute, “thus rendering its solution possibly more difficult.”<sup>50</sup> By signing a Registry Agreement with ZACR, and thus purporting to begin the delegation of the .AFRICA gTLD to ZACR, ICANN has squarely violated this principle and created a situation of competing obligations to DCA and to ZACR.

### ***3. The Interim Relief is Necessary in Order to Protect DCA’s Procedural Rights***

26. The orders requested by DCA are necessary because, without them, DCA will suffer irreparable harm. Necessity under international law generally means that without the requested relief, the complaining party will suffer irreparable harm that cannot be adequately compensated through monetary damages and outweighs the harm that will be suffered by granting the interim relief.<sup>51</sup> The analysis involves both a question of whether the harm may be reduced to monetary compensation and whether the harm suffered by the complaining party without the interim relief is proportionally greater than the harm suffered by the responding party if the relief is granted.<sup>52</sup>

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<sup>49</sup> See, e.g., Partial Award of December 23, 1982, ICC Case No. 3896, 110 Journal du droit international (Clunet), 1983, pp. 914-918 (compelling the respondent to renounce its call of the claimant’s performance guarantees, which respondent called after the arbitration commenced).

<sup>50</sup> *Amco Asia Corp. and others v. Republic of Indonesia* (ICSID Case No. ARB/81/1), Decision on Request for Provisional Measures, ICSID Reports, 1993, p. 412.

<sup>51</sup> See, e.g., UNCITRAL Model Law, Art. 17A (“Harm not adequately repaired by an award of damages is likely to result if the measure is not ordered and such harm substantially outweighs the harm that is likely to result to the party against whom the measure is directed if the measure is granted”); see also, Metalclad Corporation v. United Mexican States, ICSID Case No. ARB(AF)/97/1, Interim Decision on Confidentiality, 27 October 1997, para. 8 (“the measures are urgently required in order to protect its rights from an injury that cannot be made good by the subsequent payment of damages.”) (applying the reasoning of the Washington Convention Art.47 to NAFTA 1134 in order to rule on interim measures).

<sup>52</sup> See, e.g. *Quiborax S.A., Non Metallic Minerals S.A. and Allan Fosk Kaplún v. Plurinational State of Bolivia*, ICSID Case No. ARB/06/2, Decision on Provisional Measures, 26 February 2010, ¶¶ 156, 158 (“The Tribunal considers that an irreparable harm is a harm that cannot be repaired by an award of damages. . . . However, Claimants have accurately pointed out that the necessity requirement requires the Tribunal to consider the proportionality of the requested provisional measures. The Tribunal must thus balance the harm caused to Claimants by the criminal proceedings [which would be stayed by an award of

27. Without an order preventing ICANN from taking further steps to delegate .AFRICA, DCA will be unable to obtain a remedy in this IRP. Operation of .AFRICA is a unique right, and there is no substitute right that could be awarded to DCA. Moreover, it would be impossible to quantify the harm. DCA was created expressly for the purpose of campaigning for, competing for and ultimately operating .AFRICA. DCA has numerous charitable initiatives that are based upon this mission. If it 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.

28. The discovery orders are also necessary because without the requested information, DCA will be unable to ensure that further damage to its rights is not done by ICANN's continuing to process the ZACR application. The requested discovery orders are necessary to prevent the irreparable harm that will result if DCA is denied an opportunity for a meaningful hearing during the IRP.

29. By contrast, ICANN will suffer no similar harm if the Emergency Arbitrator issues the orders DCA requests. Regardless of the outcome of the IRP, ICANN will be able to delegate .AFRICA.<sup>53</sup> The IRP is meant to be an expedited dispute resolution process.<sup>54</sup> A slight delay in delegation is hardly an undue burden compared to the issues at stake. Primary among those issues are the integrity of the IRP process ICANN has put in place to ensure its accountability and transparency to the global community of Internet stakeholders, and the irreparable harm that would be inflicted on DCA if it loses the chance to compete for .AFRICA without even being

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provisional measures] and the harm that would be caused to Respondent if the proceedings were stayed or terminated.”).

<sup>53</sup> 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.

<sup>54</sup> ICANN Bylaws, Art. IV, Section 3, para. 18 (providing that the IRP panel should aim to resolve the dispute within six months after the request for IRP is filed) [Ex. C-10].

heard by the Panel. DCA has a right to be heard in a meaningful way in the only proceeding available to review the ICANN Board's decisions. To the extent that ICANN might be in violation of its obligations to ZACR under the Registry Agreement, it should be noted that a Registry Agreement is not a guarantee of delegation; moreover ICANN created the situation where its obligations to its competing stakeholders were in conflict, with full knowledge of the predicament it was creating.<sup>55</sup>

#### **4. *The Interim Relief is Needed Urgently, on an Emergency Basis***

30. Finally, the orders DCA requests are needed urgently, on an emergency basis, because without the order compelling ICANN to stay processing of ZACR's application, DCA will suffer irreparable harm before the IRP process can be concluded and indeed, perhaps before the Panel is constituted. 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.<sup>56</sup> This standard is sometimes termed "imminent harm."<sup>57</sup> 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 all rights to .AFRICA by April 2014, and will begin operating .AFRICA by May 2014.

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<sup>55</sup> Letter from Arif Ali to Jeffrey LeVee (22 January 2014); Email from Jeffrey LeVee to Arif Ali (5 February 2014).

<sup>56</sup> *Burlington Resources* at 73 (indicating that a question is urgent when that question cannot await the outcome of the proceeding on the merits).

<sup>57</sup> See, e.g., UNCITRAL Arbitration Rules (2010) ("An interim measure is any temporary measure by which, at any time prior to the issuance of the award by which the dispute is finally decided, the arbitral tribunal orders a party, for example and without limitation, to....(b) Take action that would prevent, or refrain from taking action that is likely to cause, (i) current or imminent harm").

31. The harm DCA seeks to prevent is also imminent because DCA has requested relief in order to protect its procedural rights: the right to a process that has the potential to produce a remedy, the right to a meaningful opportunity to present its case, and the right to maintenance of the status quo existing at the time dispute resolution commenced, without further aggravation of the dispute. Where the integrity of the dispute resolution process itself is at issue, measures requested to protect that process are “urgent by definition.”<sup>58</sup> Thus, DCA is entitled to interim relief to protect its procedural rights to a remedy, a meaningful opportunity to be heard, and the maintenance of its rights under the status quo which existed when DCA brought the IRP.

#### **IV. RELIEF REQUESTED**

32. In light of the foregoing, DCA respectfully requests the appointment of an Emergency Arbitrator under Article 37 of the ICDR Rules, and that said Arbitrator provide interim measures of protection by way of an award pursuant to Article 21 of the Rules as follows:

- An interim award compelling ICANN to stay any further processing of any application for .AFRICA until the IRP has concluded and the Board has made its decision based upon the Panel’s declaration;
- An interim award compelling ICANN to disclose in detail all steps taken to date toward delegating .AFRICA to ZACR, including but not limited to the circumstances of the Registry Agreement’s signature on or before March 24, 2014; and
- An interim award compelling ICANN to disclose in detail all steps remaining towards final delegation of the .AFRICA to ZACR and a truthful representation of the dates on which those steps would be expected to occur if not for an order staying further processing.

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<sup>58</sup> See, e.g., *Millicom International Operations B.V. v. Singapore*, ICSID Case No. ARB/08/20, Decision on the Application for Provisional Measures, (1 Feb 2010) para 153 (“if measures are intended to protect the procedural integrity of the arbitration...they are urgent by definition”).

Respectfully submitted,



Arif H. Ali  
Counsel for Claimant

## **Annex A**

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Email from Jeffrey LeVee to Carolina Cardenas-Soto (25 March 2014)

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----- Original Message -----

Subject: RE: DCA Trust v ICANN

From: Jeffrey LeVee [Contact Information Redacted](#)

To: "Carolina Cardenas-Soto, LL.M." [Contact Information Redacted](#)

CC: "Ali, Arif" [Contact Information Redacted](#), "Franzetti, Erica" [Contact Information Redacted](#), "Walter, Marguerite" [Contact Information Redacted](#)

Eric P. Enson"

Cindy Reichline [Contact Information Redacted](#)

Dear Carolina,

I received your email of 25 March 2014 (below) and was surprised by the ICDR's interpretation of the Supplementary Procedures as it relates to providing the parties an opportunity to seek emergency relief, and in particular a stay. ICANN had fully anticipated that, because a Standing Panel had not yet been convened, the emergency measures set forth in Article 37 would be available to the parties, particularly if the ICDR or a claimant (in this instance, DotConnectAfrica Trust (DCA)) had requested that this Article be reinstated for this particular proceeding.

ICANN is committed to ensuring that procedural options are available to the parties in Independent Review Proceedings. Given that there is no Standing Panel yet in place, ICANN does not have any objection to the ICDR appointing a neutral and allowing that neutral to consider an application from DCA for emergency relief, if DCA chooses to submit such an application. Although ICANN believes that any such application for emergency relief would be frivolous, ICANN believes that DCA should have the right to pursue emergency relief, particularly since DCA is not responsible for appointing the Standing Panel.

To be clear, in the event DCA moves for emergency relief, ICANN at present intends to oppose DCA's application on its merits, including the fact that DCA has delayed so substantially in seeking such relief.

Regards,

Jeff LeVee  
JONES DAY® - One Firm Worldwide  
Telephone: [Contact Information Redacted](#)

|----->  
| From: |  
|----->

## **Annex B**

Email from Carolina Cardenas-Soto to the parties (25 March 2014)

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**From:** Carolina Cardenas-Soto, LL.M. **Contact Information Redacted**  
**Sent:** Tuesday, March 25, 2014 1:32 PM  
**To:** Walter, Marguerite; **Contact Information Redacted**  
**Cc:** **Contact Information Redacted** Ali, Arif; Franzetti, Erica  
**Subject:** RE: DCA Trust v ICANN

Dear Counsel,

Further to our communication below, please be advised that there is no Standing Panel yet in place, in addition, Article 37 of the International Rules does not apply, therefore the only option regarding interim measures at this time is to make the application to the IRP panel once constituted.

Please feel free to contact us should you have any questions.

Best,  
Carolina

---

**From:** Carolina Cardenas-Soto, LL.M.  
**Sent:** Monday, March 24, 2014 5:05 PM  
**To:** 'Walter, Marguerite'; **Contact Information Redacted**  
**Cc:** **Contact Information Redacted** Ali, Arif; Franzetti, Erica  
**Subject:** RE: DCA Trust v ICANN

Dear Ms. Walter,

We are in receipt of DotConnect's communications dated March 23, 2014. We shall provide an answer by tomorrow, March 25, 2014.

Best regards,  
Carolina

---

**From:** Walter, Marguerite **Contact Information Redacted**  
**Sent:** Sunday, March 23, 2014 6:23 PM  
**To:** **Contact Information Redacted**

## **Annex C**

Email from Marguerite Walter to Carolina Cardenas-Soto (26 March 2014)

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-----Original Message-----

From: Walter, Marguerite  
Sent: Wednesday, March 26, 2014 4:40 PM  
To: 'Carolina Cardenas-Soto, LL.M.'; Jeffrey LeVee  
Cc: Ali, Arif; Franzetti, Erica; Eric P. Enson; Cindy Reichline  
Subject: RE: DCA Trust v ICANN

Dear Ms. Cardenas-Soto,

Claimant accepts ICANN's proposal that Article 37 apply in this proceeding, and will submit a request for relief from an emergency arbitrator by no later than Friday March 28.

Best regards,

Marguerite C. Walter

Weil, Gotshal & Manges LLP  
Contact Information Redacted

-----Original Message-----

From: Carolina Cardenas-Soto, LL.M. Contact Information Redacted  
Sent: Wednesday, March 26, 2014 12:53 PM  
To: Jeffrey LeVee Contact Information Redacted  
Cc: Ali, Arif; Franzetti, Erica; Walter, Marguerite; Reichline Contact Information Redacted  
Subject: RE: DCA Trust v ICANN Eric P. Enson; Cindy

Dear Mr. LeVee,

We acknowledge receipt of your email below. If Claimant agrees that Article 37 will apply in contradiction to Article 12 of the Supplementary Procedures, the ICDR will proceed accordingly. Please advise.

Best regards,  
Carolina

## **Annex D**

Letter from Arif Ali to Jeffrey LeVee (22 January 2014)

# Weil, Gotshal & Manges LLP

VIA EMAIL

Contact Information Redacted

22 January 2014

Arif Ali  
Contact Information  
Redacted

Jeffrey A. LeVee  
Jones Day, LLP  
Contact Information Redacted

Fadi Chehadé, CEO  
John Jeffrey, General Counsel  
Internet Corporation for Assigned Names and Numbers  
12025 Waterfront Drive, Suite 300  
Los Angeles, CA 90094-2536  
Tel: +1 310 301 5800  
Fax: +1 310 823 8649

Ref: Independent Review Process (ICDR No. 50 117 T 1083 13)  
DotConnectAfrica Trust v. Internet Corporation for Assigned Names and Numbers

Dear Sirs:

We write on behalf of Claimant DotConnectAfrica Trust (“DCA”) in the above-referenced matter to request that ICANN immediately cease any further processing of all applications for the delegation of the .AFRICA gTLD.

As you are aware, DCA is challenging ICANN’s decision not to proceed with DCA’s application for the .AFRICA gTLD on the grounds that ICANN’s conduct with respect to applications for the .AFRICA gTLD, and its treatment of DCA’s application, were unfair, discriminatory, and lacked appropriate due diligence and care, in breach of ICANN’s Articles of Incorporation and Bylaws. Should DCA succeed in its challenge, it believes its application must proceed, in accordance with the gTLD Applicant Guidebook. According to the rules set forth in the Guidebook, if it passed initial review, DCA would enter into a contention set with other applicants for the .AFRICA gTLD in order to negotiate an appropriate outcome to the competing applications for this domain name.

Jeffrey A. LeVee  
22 January 2014  
Page 2

**Weil, Gotshal & Manges LLP**

Obviously, DCA's right to proceed in the application process would be irreparably harmed if ICANN continued to process other applications for the .AFRICA gTLD, as this may result in a decision to award the domain name to another applicant before the IRP has concluded. Indeed, we understand that there is only one other application for the .AFRICA gTLD, and that the applicant has made public statements concerning its expectation that ICANN will award it the .AFRICA domain name in the very near future. Should ICANN take this step, DCA's request for relief through the IRP would be rendered moot, as DCA would be irretrievably deprived of the relief it seeks. Accordingly, it is our view that any actions taken by ICANN to further process applications for the .AFRICA gTLD would breach the rules and procedures ICANN has laid out for the New gTLD Program, as well as its obligation to abide by the principles expressed in its Bylaws and Articles of Incorporation, particularly the obligation to act transparently and in good faith.

Should ICANN refuse to suspend processing of applications for the .AFRICA domain name, we intend to seek emergency relief under Article 37 of the ICDR International Arbitration Rules. We believe we have the right to seek such relief because there is no standing panel (as anticipated in the Supplementary Procedures put together by ICANN), which would otherwise hear requests for emergency relief pending the constitution of the Tribunal.

Very truly yours,



Arif H. Ali

Contact Information Redacted

## **Annex E**

Email from Jeffrey LeVee, Counsel for ICANN, to Arif Ali, Counsel for DCA

.....(5 February 2014).....

**Contact Information Redacted**  
**From:** Jeffrey LeVee  
**Sent:** Wednesday, February 05, 2014 3:33 PM  
**To:** Walter, Marguerite  
**Cc:** Ali, Arif; Franzetti, Erica; Eric P. Enson; Cindy Reichline  
**Subject:** Re: ICDR Case 50 117 T 1083 13 DotConnectAfrica Trust (DCA Trust) vs. Internet Corporation for Assigned Names and Numbers (ICANN)

Arif:

Thank you for your letter. 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.

I am, of course, available to discuss this at your convenience.

Jeff LeVee  
JONES DAY® - One Firm Worldwide  
**Contact Information Redacted**

---

From: "Walter, Marguerite" **Contact Information Redacted**  
To: **Contact Information Redacted**  
Cc: "Ali, Arif" **Contact Information Redacted** "Franzetti, Erica" · **Contact Information Redacted**  
Date: 01/22/2014 11:02 AM  
Subject: ICDR Case 50 117 T 1083 13 DotConnectAfrica Trust (DCA Trust) vs. Internet Corporation for Assigned Names and Numbers (ICANN)

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Dear Mr. LeVee,

Please see the attached letter from Mr. Ali.

Best regards,

**Weil**

Marguerite C. Walter

**Contact Information  
Redacted**

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## **Annex F**

Email from Alice Munyua (23 March 2014)

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<sup>2</sup>

----- Original message ----- Subject:[governance] Re: [aisi-ig-l] Dot Africa contract signing ceremony

From:Nnenna Nwakanma To Contact Information Redacted

**Contact Information Redacted**

Cc:

Thanks, Alice.. sharing at the same time to the larger networks

On Sun, Mar 23, 2014 at 8:33 AM, Alice Munyua Contact Information Redacted wrote:

Dear Colleagues,

Apologies for cross posting.

The AUC/ZACR Dot Africa contract signing ceremony will take place during the ICANN meeting in Singapore.

For those present, please see below details

When: Wednesday 26 at

Time: 18.30

Venue: CANNING room

There will be video coverage and live streaming for this historic moment.

## **Annex G**

- Screenshot of Countdown to launch, ZACR (taken 28 March 2014)
-



4 New gTLDs are coming soon!



The Launch date is currently set for 1 May 2014

33  
days

0  
hours

16  
minutes

20  
seconds



## Stay Posted

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(<https://facebook.com/africandomain>)



(<https://youtube.com/africandomain>)

Special Launch Program

## **Annex H**

Draft – New gTLD Program – Transition to Delegation

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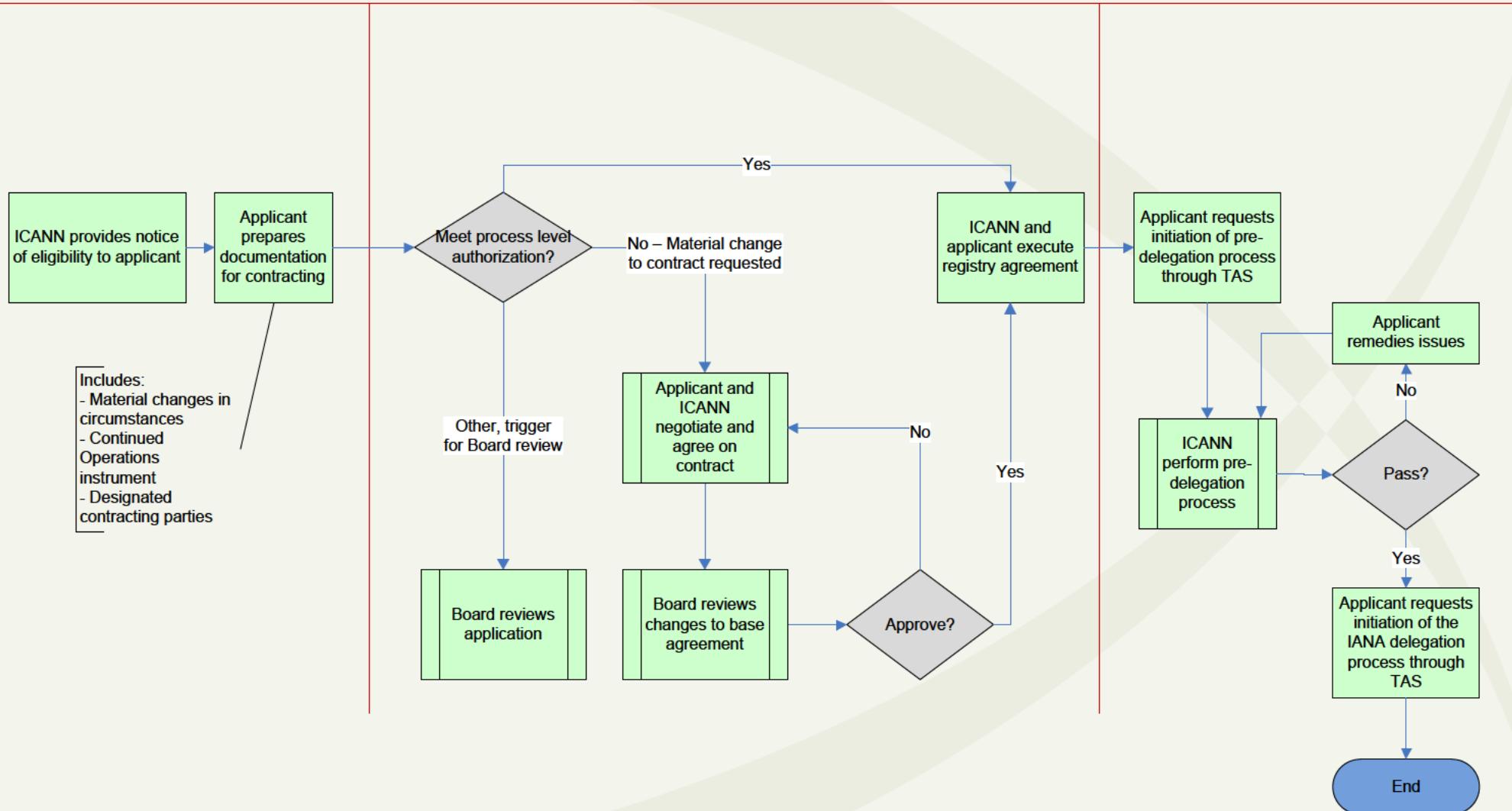
# Draft – New gTLD Program - Transition to Delegation

(Timeframes are estimates only)

**Applicant Doc Prep 1 Month**

**Contracting – 1 day to 9 months**

**Pre-Delegation Testing – 1 to 12 months**



## **Annex I**

Letter from Arif Ali to Jeffrey LeVee (23 March 2014)

# Weil, Gotshal & Manges LLP

Contact Information Redacted

March 23, 2014

Arif H. Ali  
Contact Information Redacted

Jeffrey A. LeVee, Esq.  
Jones Day, LLP  
Contact Information Redacted

Re: Urgent Request Re ICDR Case 50 117 T 1083 13 DotConnectAfrica Trust (“DCA”) vs. Internet Corporation for Assigned Names and Numbers (“ICANN”)

Dear Mr LeVee:

We write to urgently request that ICANN refrain from delegating the .AFRICA domain name to Uniforum/ZACR by signing a contract with the latter, as we understand it plans to do in Singapore on March 26, 2014.<sup>1</sup>

As you are well aware, and as we explained in our letter to you of January 22, if ICANN proceeds with the delegation of .AFRICA to another applicant before this IRP proceeding has run its course, ICANN will effectively eviscerate DCA’s right to challenge ICANN’s arbitrary and wrongful treatment of its application for .AFRICA.<sup>2</sup>

Just as importantly, if ICANN proceeds as it apparently intends to do, it will seriously undermine the transparency and accountability procedures ICANN itself has established to safeguard the integrity of its activities concerning the Internet naming and numbering system. ICANN will, moreover, substantially damage its own credibility as the entity responsible for ass Co g secure and transparent Internet nta

<sup>1</sup> Email from Alice Munyua dated March 23, 2014 (announcing signing of Uniforum/ZACR contract signing with ICANN for March 26, 2014), Annex A hereto.

<sup>2</sup> Letter from DCA to ICANN dated January 22, 2014, Annex B hereto. *See also* Email from J. LeVee to A. Ali dated February 5, 2014 (refusing to suspend processing of applications for .AFRICA), Annex C hereto.

Jeffrey A. LeVee, Esq.  
March 23, 2014  
Page 2

**Weil, Gotshal & Manges LLP**

governance procedures. Indeed, if ICANN proceeds to delegate .AFRICA notwithstanding the pendency of this proceeding, it will fail in its responsibility to Internet stakeholders around the world.

We would appreciate your immediate reply to this urgent request, and reserve our right to seek relief elsewhere if we do not hear from you by end of business on March 24, or if ICANN indicates that it plans to go forward with the delegation of .AFRICA in Singapore.

Sincerely,



Arif H. Ali  
Counsel for DCA Trust

Cc: Carolina Cardenas-Soto, ICDR  
Professor Catherine Kessedjian  
Judge Richard C. Neal  
Neil Dundas, Director, ZA Central Registry  
Simla Budhu, Legal & Policy Manager, ZACR

Enclosures

## **Annex J**

Letter from Arif Ali to Neil Dundas, Director, ZA Central Registry

(23 March 2014)

# Weil, Gotshal & Manges LLP

Contact Information Redacted

Arif H. Ali

Contact Information Redacted

March 23, 2014

Neil Dundas  
Director, ZA Central Registry  
Contact Information Redacted

Re: ICDR Case 50 117 T 1083 13 DotConnectAfrica Trust (“DCA”) vs. Internet Corporation for Assigned Names and Numbers (“ICANN”)

Dear Mr Dundas:

We write to inform you that DotConnect Africa Trust (“DCA”) has initiated an Independent Review Process (“IRP”) under the dispute resolution procedures established by the Internet Corporation for Assigned Names and Numbers (“ICANN”) regarding ICANN’s administration of applications for the .AFRICA new general top-level domain name (“gTLD”). DCA filed its Notice of Independent Review in October 2013,<sup>1</sup> and amended that Notice in January 2014.<sup>2</sup>

On January 22, 2014, DCA requested that ICANN suspend its processing of all applications for .AFRICA pending the completion of the IRP.<sup>3</sup> ICANN categorically refused to do so.<sup>4</sup>

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<sup>1</sup> DCA’s Notice of Independent Review Process (October 24, 2013), attached as Annex A hereto.

<sup>2</sup> DCA’s Amended Notice of Independent Review Process (January 10, 2014), attached as Annex B hereto.

<sup>3</sup> Letter to ICANN from DCA (January 22, 2014), attached as Annex C hereto. We understand that you may not be aware of DCA’s request, as ICANN has evidently omitted these communications from its website.

<sup>4</sup> Email from J. LeVee to A. Ali (February 5, 2014), attached as Annex D hereto.

Neal Dundas  
March 23, 2014  
Page 2

Weil, Gotshal & Manges LLP

We have just learned that ICANN apparently intends to delegate the .AFRICA domain name to Uniforum/ZACR by signing a contract with Uniforum/ZACR in Singapore on March 26, 2014.<sup>5</sup>

Please be informed that the rights to .AFRICA are disputed in the IRP. Should you proceed in signing a contract with ICANN, DCA reserves its right to take all necessary steps to protect its rights.

Sincerely,



Arif H. Ali  
Counsel for DCA Trust

Cc: Carolina Cardenas-Soto, ICDR  
Jeffrey A. LeVee, Jones Day  
Professor Catherine Kessedjian  
Judge Richard C. Neal  
Simla Budhu, Legal & Policy Manager, ZACR

Enclosures

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<sup>5</sup> Email from Alice Munyua dated March 23, 2014 (announcing signing of Uniforum/ZACR contract signing with ICANN for March 26, 2014), Annex E hereto.

## **Annex K**

Screenshot of ICANN official announcement of the .AFRICA Registry Agreement

(24 March 2014)

# Internet Corporation for Assigned Names and Numbers

ABOUT US (/EN/ABOUT) > AGREEMENTS (/EN/ABOUT/AGREEMENTS) > REGISTRY (/EN/ABOUT/AGREEMENTS/REGISTRIES)

## .africa Registry Agreement

24 March 2014

On 24 March 2014, ICANN (Internet Corporation for Assigned Names and Numbers) and ZA Central Registry NPC trading as Registry.Africa entered into a Registry Agreement under which ZA Central Registry NPC trading as Registry.Africa operates the .africa top-level domain. The agreement may be viewed by following the links below:

### Registry Agreement

- DOCX (/sites/default/files/tlds/africa/africa-agmt-docx-23mar14-en.docx) | Redline (/sites/default/files/tlds/africa/africa-agmt-docx-redline-23mar14-en.docx)
- PDF (/sites/default/files/tlds/africa/africa-agmt-pdf-23mar14-en.pdf) | Redline (/sites/default/files/tlds/africa/africa-agmt-pdf-redline-23mar14-en.pdf)
- HTML (/sites/default/files/tlds/africa/africa-agmt-html-23mar14-en.htm) | Redline (/sites/default/files/tlds/africa/africa-agmt-html-redline-23mar14-en.htm)

Note: The official version is the Word version above. This HTML version is machine-generated and may not display correctly.

### Name Collision Occurrence Management Documents

- Alternate Path to Delegation Report (/en/about/agreements/registries/africa/africa-apd-report-12nov13-en.htm)
- List of SLDs to Block (/sites/default/files/tlds/africa/africa-apd-list-12nov13-en.csv)

Welcome (/en/about/welcome)

Learning (/en/about/learning)

Participate (/en/about/participate)

Board (<http://www.icann.org/en/groups/board>)

CEO (<http://www.icann.org/en/about/ceo>)

Staff (/en/about/staff)

Careers ([https://icann-openhire.silkroad.com/epostings/index.cfm?fuseaction=app.allpositions&company\\_id=16025&version=1](https://icann-openhire.silkroad.com/epostings/index.cfm?fuseaction=app.allpositions&company_id=16025&version=1) )

## **Annex L**

Letter from Jeffrey LeVee to Arif Ali (24 March 2014)

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# JONES DAY

555 SOUTH FLOWER STREET • FIFTIETH FLOOR • LOS ANGELES, CALIFORNIA 90071-2300  
TELEPHONE: +1.213.489.3939 • FACSIMILE: +1.213.243.2539

Contact Information Redacted

March 24, 2014

VIA EMAIL

Arif H. Ali, Esq.  
Contact Information Redacted

Re: DCA and ICANN

Dear Arif:

I am responding to your letters sent last night, Sunday, March 23.

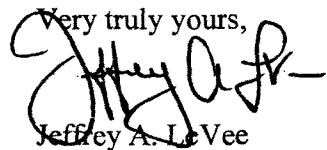
First, as your letter states, I informed you on February 5, 2014 – over six weeks ago – that ICANN would not suspend its processing of the other application for the .AFRICA generic top level domain (gTLD). In my email of February 5, I told you that ICANN believes that DCA's claims in the Independent Review Proceeding “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.” You never responded to my email.

Second, DCA initiated these Independent Review proceedings in November 2013, over four months ago. As you are well aware, DCA has always had available to it the means under the ICDR rules to apply for emergency relief. Although ICANN believes that any application for emergency relief, in this instance, would be frivolous, DCA has elected not to seek such relief. DCA's delays – including repeated extensions of time to file its papers (over ICANN's objections) and the extremely slow pace of selecting the panel (as DCA requested) – did not require ICANN to alter the pace of the processing of gTLD applications.

Third, DCA's own delays in seeking emergency relief completely undermine the notion stated in your letter that ICANN would “damage its own credibility” by proceeding to contract with ZA Central Registry (“ZACR”). ICANN is doing exactly what it told DCA it would do, and the fact of ICANN's continued processing of ZACR's application has not been a secret. We presume that the reason that DCA has refrained from seeking emergency relief is that DCA knows that its claims are extraordinarily weak, as confirmed by ICANN's response to DCA's Notice, dated February 10, 2014. (Because you provided the panelists a copy of DCA's Notice, I am attaching a copy of ICANN's Response and the two accompanying declarations.)

Arif H. Ali, Esq.  
March 24, 2014  
Page 2

Finally, ICANN has already signed the registry agreement with ZACR for the .AFRICA gTLD. A copy of the executed agreement will be posted on ICANN's website in due course and in accordance with ICANN's process.

Very truly yours,  
  
Jeffrey A. Le Vee

cc: Carolina Cardenas-Soto  
Professor Catherin Kessedjian  
The Hon. Richard C. Neal (Ret.)  
Neil Dundas, ZA Central Registry  
Simla Budhu, Legal & Policy Manager, ZACR

## **Annex M**

Commuque, African Union Commission, African ICT Ministerial Round-table

on 42nd Meeting of ICANN, 11 October 2011



COMMISSION DE L'UNION AFRICAINE



REPUBLIQUE DU SENEGAL

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**MINISTERE DE LA COMMUNICATION, DES  
TELECOMMUNICATIONS ET DES TECHNOLOGIES DE  
L'INFORMATION ET DE LA COMMUNICATION**

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**AFRICAN ICT MINISTERIAL ROUND-TABLE  
ON 42<sup>nd</sup> MEETING OF ICANN**

Hotel Méridien  
Dakar, SENEGAL

21 Octobre 2011

# **COMMUNIQUE**

## **PREAMBLE**

**WE**, African Ministers in charge of Communication and Information Technologies met in the Ministerial Round-Table on ICANN in Dakar, during 19–21 October, 2011.

**Guided** by the Constitutive Act and the Vision of the African Union (AU);

**Recalling** the Declaration of the 14th Assembly of Heads of State and Government Summit on Information and Communication Technologies in Africa: “Challenges and Prospects for Development”, number (Doc.Assembly/AU/11(XIV)), made in Addis Ababa, Ethiopia, in February 2010;

**Re-affirming** that Information and Communication Technologies are key to Africa’s development and economic competitiveness in the attainment of the African Union Vision, the objectives of the Tunis Agenda of The World Summit on the Information Society (WSIS) and the Millennium Development Goals (MDGs);

**Welcoming** the Launch of the African Internet Governance Forum (AfIGF) made by African Stakeholders on 30 September 2011 as a platform for multi-stakeholder dialogue on Internet Governance issues on the continent, to be hosted by the United Nations Economic Commission for Africa (UNECA) with the support of the African Union Commission (AUC);

**Welcoming** the various initiatives and programmes of Internet Corporation for Assigned Names and Numbers (ICANN) and its constituencies on the development of the Internet sector, including; Security, Stability, IDN and New gTLDs among others;

**Welcoming** and **Recognising** the various initiatives and program of AfriNIC and its constituencies on the development of the Internet Infrastructure in Africa including the efficient management of Internet Number Resources for the region. In addition to its effort and support provided to incubate regional IGFs in the continent;

**Acknowledge** the significant efforts deployed by the “Joint Applicant Support” Working Group to develop a sustainable approach to providing support to applicants requiring assistance, especially those from developing countries, in applying for and operating new gTLDs as per the ICANN Board resolution number 20 adopted in Nairobi in 2010;

**Taking note** of the GAC Reports on the various Internet public policy issues of ICANN;

## **HEREBY COMMIT TO:**

- Promote the intergovernmental consultations in Africa pertaining to the Agenda of ICANN and GAC meetings.
- Participate more actively in ICANN meetings and also to join the GAC in order to reinforce the common position of the African community on the various issues and in policy development of the Internet;
- Promote in collaboration with the AU, UNECA and other stakeholders the inclusion of networking sciences and technologies in the courses of instruction at Universities in Africa to ensure Africa’s future participation in an increasingly networked global

information society

- Promote the discussion in African organisations and internationally around having more multicultural and multilingual international leadership at ICANN to reflect the Internet of today.
- Promote Dot Africa gTLD at the national level by undertaking information, education and communication activities towards the community including private sector and civil society entities. The media should be fully involved in this awareness campaign.
- Promote development of ccTLDs through the promotion of good models for each ccTLD in Africa and through promotion of AFTLD and other similar regional organisations to make domain names more affordable and more inclusive.
- Provide support to ccTLDs for the strengthening of national network information centers (NIC), strengthening AFTLD and other similar regional organisations, adoption and dissemination of best practices in domain name management.
- Work with all stakeholders to set a roadmap and deploy IPv6 on our Internet Infrastructure to safeguard the future of Internet development in Africa.
- Build on the current efforts of AfriNIC, the African Internet Number Registry, to provide training and create an appropriate framework necessary for a smooth transition to IPv6.
- Promote the deployment of DNSSEC as a crucial measure to secure Internet domain name resolution service.
- Promote the setup of Internet Exchange Points (IXPs) at national and regional level and encourage local and regional peering among operators which contributes to aggregation of traffic and reduction of cost and latency on international bandwidth.
- Encourage the development of country network operator groups (cNOGs) as communities that coordinate network operations and support networks through training and meetings at the country, regional and continental levels
- Support and promote AfriNIC Root Server Copy Program initiative allowing African countries to improve resiliency of their local Internet Infrastructure.
- Stimulate the use of Internet in all dimensions, and also encourage the development of a strategy to strengthen human capacity in the public and private sectors by making optimal use of existing resources, establishing of an aggressive and consistent local market oriented systems, establishing of ICT training centers and also encourage participation in the training workshops organized by the regional, continental and international stakeholders.
- Contribute to the harmonization of policies and regulatory frameworks of Regional Economic Communities (RECs) taking into consideration the various initiatives of AUC and UNECA.

- Cooperate with AUC and the UNECA in organizing consultation workshops with Regional Economic Communities and member States in order to finalize the provisional Convention on Cyber Legislation and submit it to CITMC in April 2012 and further to the Summit of Heads of State in July 2012. Furthermore the AUC and UNECA are requested to support member States in transposing the Convention into national legislations.
- Support and promote regional and local forum on IGF to stimulate multi-stakeholder and participatory approach to Internet Development issues in Africa using the spirit of the IGF.
- Promote the creation of national Business Public Key Infrastructure (PKI) through reactivation of the continental "AfriPKI" initiative launched in 2003 by the UNECA and the OIF to support secure online Identity for e-Governance and public services;
- Revitalize the Africa PKI forum to support PKI initiatives in Africa. Consultations should be fostered by the AUC in cooperation with UNECA and AfriNIC to work on establishment of certification agencies in the regions to stop the over reliance of African networks on foreign certification agencies.
- Encourage involvement of the private sector to develop innovative activities, services, applications and content industry.
- Setup national, regional and continental Computer Emergency Response Teams (CERT) to manage global and local cyber security incidences
- Strengthen the implementation of observatory institutions and programmes for measurement, metrics, statistics and analysis of ICT and economic development
- Involve civil society in advocacy initiatives, building awareness, dissemination of information and evaluation.
- Support Research and Education Networks (RENs) at, national, regional and continental levels.
- Setup national and regional Internet Governance Forums to actively participate in AfIGF.

**HEREBY REQUEST THE BOARD OF ICANN TO:**

- Include (.Africa, .Afrique, .Afrikia, (.افريقيا)), and its representation in any other language on the Reserved Names List in order to enjoy the level of special legislative protection, so to be managed and operated by the structure that is selected and identified by the African Union.
- Provide more fellowship to support government and other stakeholders from least developed countries in Africa to increase their participation in the various meetings of GAC and ICANN.

- Support and implement the opening of an ICANN Africa Office like in other regions, to be closer to African stakeholders to provide direct advice on Africa's participation to ICANN and outreach, and also to facilitate ICANN's mission.
- Support the integration of an ethics charter for board and staff at ICANN to prevent conflict of interests not addressed at the moment. This should be done as soon as possible and as independently as possible from the organization itself.
- Support ICANN's efforts to ensure that all ICANN documents, meetings and training sessions are open and conducted in all the UN languages, especially in French, given that it is the official language of many African countries..
- Strengthen the internationalization of ICANN by introducing the principle of geographical rotation in line with other international bodies in their management (Board of Directors and Management),
- Support the US Government draft "statement of work" in the recent Notice of Inquiry On the IANA contract, and also ICANN's own bylaws. To the greatest degree possible, decisions about ccTLDs (including what strings are utilised, who operates the registry and what policies the registry should follow besides those set out by ICANN) should be made by the responsible public authority and the local Internet community concerned and not by the IANA contractor.
- Impart an early warning period to all applicants whether a proposed string would be considered controversial or to raise sensitivities, including; geographical, cultural and community names. This will provide opportunity to governments to review potential new gTLD strings and to advise applicants whether their proposed strings would be considered controversial or would raise national sensitivities.
- Support Africa to have root servers in countries in order to minimize the connectivity exchanges and for better utilization of the available bandwidth.
- Adopt the final report of "Joint Applicant Support" Working Group and also urge to proceed to the establishment of the related implementation plan to be ready for the upcoming application round.
- Make the best use of the available resources for Outreach and Education toward the expected African new gTLD applicants by proposing innovative and efficient programs for all African regions.
- Speed up the process of resolving and finding resolutions to the outstanding substantive issues on the last version of the Draft Applicant guidebook before the launch of the new gTLD application process.

**EXPRESS** our gratitude to His Excellency President Abdoulaye WADE, the Government and People of the Republic of Senegal for their warm hospitality and excellent organization of this event.

**Dakar, SENEGAL, 21 October 2011**

## **Annex N**

Screenshot of Application Details, Application ID: 1-1243-89583

(taken 28 March 2014)



# New Generic Top-Level Domains

## APPLICATION DETAILS

[View Application Update History \(/applicationstatus/applicationdetails:viewapplicationchangehistory/1184?t:ac=1184\)](/applicationstatus/applicationdetails:viewapplicationchangehistory/1184?t:ac=1184)

**Application ID:** 1-1243-89583

**String:** AFRICA ([download public portion of application \(/applicationstatus/applicationdetails:downloadapplication/1184?t:ac=1184\)](/applicationstatus/applicationdetails:downloadapplication/1184?t:ac=1184))

**Applicant:** ZA Central Registry NPC trading as Registry.Africa

**Prioritization Number:** 307

**Address:** COZA House, Gazelle Close Corporate Park South Midrand, Gauteng - 1685 ZA

**Web Site:** <http://www.AfricalnOneSpace.org>

**Primary Contact:** Neil Dundas

**Phone Number:** Contact Information Redacted

**Email:** Contact Information Redacted

## Attachments (10):

*Caution: these files were prepared and submitted by a party other than ICANN, and ICANN is not responsible for the content. The files could contain scripts or embedded links that might execute or open automatically. You should make sure your operating system and applications (including antivirus definitions if applicable) are fully updated. Proceed at your own risk.*

- [24 \(DNS-NetworkDiagram.pdf\) \(/applicationstatus/applicationdetails:downloadattachment/55407?t:ac=1184\)](/applicationstatus/applicationdetails:downloadattachment/55407?t:ac=1184)
- [24 \(DNS-ShareRegistry-Diagram.pdf\) \(/applicationstatus/applicationdetails:downloadattachment/75344?t:ac=1184\)](/applicationstatus/applicationdetails:downloadattachment/75344?t:ac=1184)
- [25 \(dotAfrica-q25-rfc.pdf\) \(/applicationstatus/applicationdetails:downloadattachment/74383?t:ac=1184\)](/applicationstatus/applicationdetails:downloadattachment/74383?t:ac=1184)
- [25 \(dotAfrica-q25.pdf\) \(/applicationstatus/applicationdetails:downloadattachment/74371?t:ac=1184\)](/applicationstatus/applicationdetails:downloadattachment/74371?t:ac=1184)
- [26 \(DNS-DetailedWhoisVM.pdf\) \(/applicationstatus/applicationdetails:downloadattachment/62395?t:ac=1184\)](/applicationstatus/applicationdetails:downloadattachment/62395?t:ac=1184)
- [26 \(dotAfrica-q26.pdf\) \(/applicationstatus/applicationdetails:downloadattachment/99135?t:ac=1184\)](/applicationstatus/applicationdetails:downloadattachment/99135?t:ac=1184)
- [27 \(DNS-DomainLifecycle-LR.pdf\) \(/applicationstatus/applicationdetails:downloadattachment/60453?t:ac=1184\)](/applicationstatus/applicationdetails:downloadattachment/60453?t:ac=1184)
- [27 \(DNS-DomainLifecycle-Registration.pdf\) \(/applicationstatus/applicationdetails:downloadattachment/60454?t:ac=1184\)](/applicationstatus/applicationdetails:downloadattachment/60454?t:ac=1184)
- [27 \(DNS-DomainLifecycle-SRLR.pdf\) \(/applicationstatus/applicationdetails:downloadattachment/48242?t:ac=1184\)](/applicationstatus/applicationdetails:downloadattachment/48242?t:ac=1184)
- [27 \(DNS-DomainLifecycle-Sunrise.pdf\) \(/applicationstatus/applicationdetails:downloadattachment/54321?t:ac=1184\)](/applicationstatus/applicationdetails:downloadattachment/54321?t:ac=1184)

**Application Status:** In PDT

**Evaluation Result:** Pass IE ([IE Report \(http://newgtlds.icann.org/en/program-status/application-results/ie-1-1243-89583-en.pdf\)](http://newgtlds.icann.org/en/program-status/application-results/ie-1-1243-89583-en.pdf))

**Contention Resolution Status:** Resolved (</applicationstatus/applicationdetails:viewcontentionsetimage?t:ac=1184>)

**Registry Agreement:** <http://www.icann.org/en/about/agreements/registries/AFRICA>  
[\(http://www.icann.org/en/about/agreements/registries/AFRICA\)](http://www.icann.org/en/about/agreements/registries/AFRICA)

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