Case 4:16-cv-00862-RGK-JC Document 59 Filed 03/28/16 Page 1 of 15 Page ID #:2692

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Defendant Internet Corporation for Assigned Names and Numbers ("ICANN") hereby responds to Plaintiff DotConnectAfrica Trust's objections to the Declaration of Jeffrey A. LeVee:

4	LeVee	Plaintiff's Objection	ICANN's	Court's Ruling
5	Declaration		Response	
5 6 7 8 9 10 11 12 13 14 15	LeVee Declaration  ¶3: "DCA filed its Notice of IRP in October 2013 but did not include the paperwork that was necessary until January 2014. DCA did not initially move for any form of interim relief. Instead, DCA waited until March 28, 2014 to file such a request. On 12 May 2014, the	Irrelevant and prejudicial [Fed. R. Evid. 403; See Bekele Decl., ¶5, Ex. 1, ¶13 ("DCA Trust also submitted 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 []	ICANN's Response  Plaintiff argues that it will suffer irreparable harm if the .AFRICA gTLD is delegated to another entity. Plaintiff's failure to move timely for interim relief is relevant to assessing Plaintiff's argument.	Court's Ruling
16 17 18 19 20 21 22 23 24 25 26 27 28	_	Beijing [] Immediately upon receiving this information, DCA contacted ICANN and asked it to refrain from signing the agreement with ZAC 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		

1	LeVee	Plaintiff's Objection	ICANN's	Court's Ruling
2	Declaration		Response	
3		instead of 26		
4		March.")].		
	<b>¶4:</b> "DCA's CEO,	Completeness	Exhibit A contains	
5	Sophia Bekele	Doctrine [Fed. R.	all the portions of	
6	Eshete, submitted a declaration to the	Evid. 106].	Ms. Bekele's lengthy declaration	
7	IRP Panel. A true		that ICANN	
8	and correct copy of		believes are	
9	an excerpt of that declaration is		relevant to the	
	attached as Exhibit		determination of Plaintiff's Motion	
10	A."		for Preliminary	
11			Injunction.	
12			Plaintiff is in	
13			possession of the full and complete	
14			copy of Ms.	
15			Eshete's	
			declaration and was free to enter	
16			the full declaration	
17			into the record, as	
18			provided by Fed.	
19	<b>¶6:</b> "Paragraphs 1-	The IRP Panel	R. Evid. 106. The Court may	
20	60 of the	Declaration is the	refer to the <i>DCA</i>	
	Declaration (pages	best evidence of the	Panel's	
21	2-17) summarize	document [Fed. R.	Declaration, which	
22	the procedural background of the	Evid. 1002; Bekele Decl. ¶5, Ex. 1].	is part of the record. (Eshete	
23	case. Paragraphs		Decl. Ex. 1, ECF	
24	53-61 (pages 16-		No. 17-1.) This	
25	18) summarize the		overview is	
26	parties' position on the merits, and		intended to provide the Court with a	
	state in a summary		very brief	
27	fashion the IRP		summary of the	
28	Panel's		lengthy	

Declaration determination that ICANN's board did not act consistently with ICANN's Articles of Incorporation and Bylaws. Paragraphs 72-77 (pages 19-77) summary the parties' position on the standard of review to be applied and the IRP Panel's determination in that regard."  11	1	LeVee	Plaintiff's Objection	ICANN's	Court's Ruling
determination that ICANN's board did not act consistently with ICANN's Articles of Incorporation and Bylaws. Paragraphs 72-77 (pages 19-77) summary the parties' position on the standard of review to be applied and the IRP Panel's determination in that regard."  The IRP Panel panel's determination in that regard."  The IRP Panel Declaration is the best evidence of the document [Fed. R. position on the merits. Paragraph 80 describes DCA's various contentions regarding ICANN's and the Geographic Names Panel's handling of DCA's applications for .AFRICA.  Paragraphs 81-82 describe DCA's contention that ICANN's Board should not have accepted the advice	2		-	Response	_
did not act consistently with ICANN's Articles of Incorporation and Bylaws. Paragraphs 72-77 (pages 19-77) summary the parties' position on the standard of review to be applied and the IRP Panel's determination in that regard."  13 determination in that regard."  14 ¶7: "Paragraphs 78-85 (pages 23-27) detail DCA's position on the merits. Paragraph 80 describes DCA's various contentions regarding ICANN's and the Geographic Names Panel's handling of DCA's and ZACR's applications for .AFRICA.  24 Paragraphs 81-82 describe DCA's contention that ICANN's Board should not have accepted the advice		determination that		declaration.	
consistently with ICANN's Articles of Incorporation and Bylaws. Paragraphs 72-77 (pages 19-77) summary the parties' position on the standard of review to be applied and the IRP Panel's determination in that regard."    The IRP Panel   The Court may refer to the DCA panel's position on the merits. Paragraph 80 describes   DCA's various contentions regarding ICANN's and the Geographic Names Panel's handling of DCA's and ZACR's applications for .AFRICA.    Paragraphs 81-82 describe DCA's contention that ICANN's Board should not have accepted the advice   The IRP Panel   The Court may refer to the DCA panel's   Declaration is the best evidence of the document [Fed. R. Evid. 1002; Bekele Decl. ¶5, Ex. 1].    The Court may refer to the DCA panel's   Declaration, which is part of the record. (Eshete Decl. Ex. 1, ECF No. 17-1.) This overview is intended to provide the Court with a very brief summary of the lengthy declaration.	3	ICANN's board			
ICANN's Articles of Incorporation and Bylaws.	4				
6 of Incorporation and Bylaws. 7 Paragraphs 72-77 (pages 19-77) summary the parties' position on the standard of review to be applied and the IRP Panel's determination in that regard."  14 ¶7: "Paragraphs 78-85 (pages 23-27) detail DCA's position on the merits. Paragraph 80 describes DCA's various contentions regarding ICANN's 20 and the Geographic Names Panel's handling of DCA's and ZACR's applications for AFRICA.  24 Paragraphs 81-82 describe DCA's contention that ICANN's Board should not have accepted the advice	5	_			
and Bylaws. Paragraphs 72-77 (pages 19-77) summary the parties' position on the standard of review to be applied and the IRP Panel's determination in that regard."  #7: "Paragraphs 78-85 (pages 23- 27) detail DCA's position on the merits. Paragraph 80 describes DCA's various contentions regarding ICANN's and the Geographic Names Panel's handling of DCA's and TACR's applications for AFRICA. Paragraphs 81-82 describe DCA's contention that ICANN's Board should not have accepted the advice	3				
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Radiagraphs 72-77 (pages 19-77) summary the parties' position on the standard of review to be applied and the IRP Panel's determination in that regard."  14 ¶7: "Paragraphs 78-85 (pages 23-27) detail DCA's position on the merits. Paragraph 80 describes DCA's various contentions regarding ICANN's and the Geographic Names Panel's handling of DCA's applications for .AFRICA.  23 APRICA.  24 Paragraphs 81-82 describe DCA's contention that ICANN's Board should not have accepted the advice	7	_			
summary the parties' position on the standard of review to be applied and the IRP Panel's determination in that regard."  13					
parties' position on the standard of review to be applied and the IRP Panel's determination in that regard."  14	8				
the standard of review to be applied and the IRP Panel's determination in that regard."  14	9	•			
review to be applied and the IRP Panel's determination in that regard."  13	10				
12   IRP Panel's   determination in that regard."					
IRP Panel's determination in that regard."  13	11	applied and the			
that regard."    The IRP Panel   The Court may   Tefer to the DCA   Panel's	12				
14   ¶7: "Paragraphs 78-85 (pages 23-27) detail DCA's best evidence of the merits. Paragraph 80 describes DCA's various contentions regarding ICANN's and the Geographic Names Panel's handling of DCA's applications for .AFRICA. Paragraphs 81-82 describe DCA's contention that ICANN's Board should not have accepted the advice	12	determination in			
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27) detail DCA's position on the position on the merits. Paragraph 80 describes DCA's various contentions regarding ICANN's and the Geographic Names Panel's handling of DCA's applications for .AFRICA.  Paragraphs 81-82 describe DCA's contention that ICANN's Board should not have accepted the advice	14				
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merits. Paragraph 80 describes DCA's various contentions regarding ICANN's and the Geographic Names Panel's handling of DCA's applications for AFRICA.  Paragraphs 81-82 describe DCA's contention that ICANN's Board should not have accepted the advice					
17 80 describes 18 DCA's various 19 contentions 19 regarding ICANN's 20 and the Geographic Names Panel's handling of DCA's 21 handling of DCA's 22 and ZACR's applications for AFRICA. 24 Paragraphs 81-82 describe DCA's contention that 11 CANN's Board 27 should not have accepted the advice	16	-	_	· ·	
Decl. Ex. 1, ECF No. 17-1.) This regarding ICANN's and the Geographic Names Panel's handling of DCA's applications for AFRICA. Paragraphs 81-82 describe DCA's contention that ICANN's Board should not have accepted the advice	17	<u> </u>	*	-	
contentions regarding ICANN's and the Geographic Names Panel's handling of DCA's and ZACR's applications for AFRICA. Paragraphs 81-82 describe DCA's contention that ICANN's Board should not have accepted the advice	18			`	
regarding ICANN's and the Geographic Names Panel's handling of DCA's and ZACR's and ZACR's applications for .AFRICA.  Paragraphs 81-82 describe DCA's contention that ICANN's Board should not have accepted the advice				· · ·	
and the Geographic Names Panel's handling of DCA's and ZACR's applications for AFRICA. Paragraphs 81-82 describe DCA's contention that ICANN's Board should not have accepted the advice  intended to provide the Court with a very brief summary of the lengthy declaration.	19			. '.	
Names Panel's handling of DCA's and ZACR's applications for AFRICA. Paragraphs 81-82 describe DCA's contention that ICANN's Board should not have accepted the advice	20				
and ZACR's applications for .AFRICA.  Paragraphs 81-82 describe DCA's contention that ICANN's Board should not have accepted the advice	21	Names Panel's		-	
23 applications for .AFRICA. 24 Paragraphs 81-82 describe DCA's contention that ICANN's Board should not have accepted the advice		•		_	
23 AFRICA. 24 Paragraphs 81-82 describe DCA's contention that 1CANN's Board should not have accepted the advice	22			_	
24 Paragraphs 81-82 describe DCA's contention that ICANN's Board should not have accepted the advice	23				
describe DCA's contention that ICANN's Board should not have accepted the advice		,		declaration.	
contention that ICANN's Board should not have accepted the advice	24				
26 ICANN's Board should not have accepted the advice	25				
should not have accepted the advice	26				
accepted the advice					
	27				
	28	_			

1		Dlaintiff's Objection	ICANN'a	Count's Dulins
	LeVee	Plaintiff's Objection	ICANN's Response	Court's Ruling
2	Declaration		1	
3	Governmental Advisory			
4	Committee			
4	("GAC") objecting			
5	to DCA's			
6	application for			
	.AFRICA			
7	("Advice")."			
8	<b>¶8:</b> "Paragraphs	The IRP Panel	The Court may	
9	86-91 (pages 27-	Declaration is the	refer to the DCA	
	38) then detail	best evidence of the	Panel's	
10	ICANN's	document [Fed. R.	Declaration, which	
11	position on the merits of each of	Evid. 1002; Bekele	is part of the	
12	these issues. The	Decl. ¶5, Ex. 1].	record. (Eshete Decl. Ex. 1, ECF	
	IRP Panel quotes		No. 17-1.) This	
13	extensively from		overview is	
14	ICANN's briefs,		intended to provide	
1.5	which responded at		the Court with a	
15	length both to		very brief	
16	DCA' s various		summary of the	
17	contentions		lengthy	
	regarding the		declaration.	
18	handling of Plaintiffs and			
19	ZACR's			
20	applications and			
	also to DCA's			
21	contention			
22	regarding the			
23	GAC's advice."			
	¶9: "Paragraphs	The IRP Panel	The Court may	
24	92-117 (pages 39-	Declaration is the	refer to the <i>DCA</i>	
25	54) detail the IRP	best evidence of the	Panel's	
26	Panel 's findings regarding the	document [Fed. R. Evid. 1002; Bekele	Declaration, which is part of the	
	merits of DCA's	Decl. ¶5, Ex. 1)].	record. (Eshete	
27	claims. The		Decl. Ex. 1, ECF	
28	entirety of the		No. 17-1.) This	

1	LeVee	Plaintiff's Objection	ICANN's	Court's Ruling
2	Declaration		Response	
	Panel's discussion		overview is	
3	is devoted to the		intended to provide	
4	Board's acceptance		the Court with a	
	of the GAC's		very brief	
5	Advice. The IRP		summary of the	
6	Panel concludes		lengthy	
7	that ICANN's		declaration.	
7	Board did not act			
8	consistently with			
9	ICANN's Articles			
9	and Bylaws in			
10	accepting the			
11	GAC's Advice. (¶			
	115.) With respect			
12	to all of DCA's			
13	other claims, the			
	Panel reaches no			
14	conclusion except to state in			
15	Paragraph 117 that:			
16	[Plaintiff] had			
10	criticized ICANN			
17	for its various			
18	actions and			
	decisions			
19	throughout this			
20	IRP and ICANN			
21	has responded to			
21	each of these			
22	criticisms in detail.			
23	However, the			
	Panel, having			
24	carefully			
25	considered these			
	criticisms and			
26	decided that the			
27	above [i.e., its			
	finding regarding			
28	the GAC's Advice]			

1	LeVee	Plaintiff's Objection	ICANN's	Court's Ruling
2	Declaration		Response	
	is dispositive of			
3	this IRP, does not			
4	find it necessary to			
5	determine who was			
	right, to what			
6	extent and for what			
7	reasons in respect to the other			
8	criticisms and			
	alleged			
9	shortcomings of			
10	the I CANN Board			
	identified by DCA			
11	Trust."			
12	¶10: "Paragraphs	The IRP Panel	The Court may	
13	118-133 (pages 54-	Declaration is the	refer to the DCA	
	57) discuss the	best evidence of the	Panel's	
14	issue of whether the IRP Panel can	document [Fed. R. Evid. 1002; Bekele	Declaration, which is part of the	
15	recommend a	Decl. ¶5, Ex. 1)].	record. (Eshete	
16	course of action to		Decl. Ex. 1, ECF	
	ICANN's Board.		No. 17-1.) This	
17	The Panel		overview is	
18	concludes that it		intended to provide	
19	can (¶128), and		the Court with a	
	accordingly		very brief	
20	recommends that		summary of the	
21	"ICANN continue		lengthy	
22	to refrain from delegating the		declaration.	
	.AFRICA gTLD			
23	and permit			
24	[Plaintiffs]			
	application to			
25	proceed through			
26	the remainder of			
27	the new gTLD			
	application process			
28	(id.¶133)."			

1	LeVee	Plaintiff's Objection	ICANN's	Court's Ruling
2	Declaration		Response	
	¶11: "Paragraphs	The IRP Panel		
3	134-147 (pages 57-	Declaration is the		
4	61) discuss the	best evidence of the		
5	issues of prevailing	document [Fed. R.		
3	party and costs.	Evid. 1002; Bekele		
6	The Panel	Decl. ¶5, Ex. 1].		
7	concludes that DCA is the			
	prevailing party			
8	and orders ICANN			
9	to pay DCA's			
10	costs. (¶¶139,			
	146.)"			
11	<b>¶12:</b> "Finally,	The IRP Panel	The Court may	
12	paragraphs 148-	Declaration is the	refer to the DCA	
13	150 set forth the	best evidence of the	Panel's	
	Panel's final	document [Fed. R.	Declaration, which	
14	declaration. The	Evid. 1002; Bekele	is part of the	
15	Panel repeats its	Decl. ¶5, Ex. 1,	record. (Eshete	
16	finding that ICANN's Board	¶¶148-149 "148. Based on the	Decl. Ex. 1, ECF No. 17-1.) This	
10	did not act	foregoing, after	overview is	
17	consistently with	having carefully	intended to provide	
18	ICANN's Articles	reviewed the Parties'	the Court with a	
	and Bylaws, as	written submissions,	very brief	
19	well as its	listened to the	summary of the	
20	recommendation	testimony of the	lengthy	
21	that DCA's	three witness,	declaration.	
	Application be	listened to the oral		
22	"permit[ted] [] to	submissions of the		
23	proceed through	Parties in various		
24	the remainder of the new gTLD	telephone conference calls and at the in-		
	application	person hearing of		
25	process." (Id.	this IRP in		
26	¶148-149.) It also	Washington, D.C. on		
	repeats its finding	22 and 23 May 2015,		
27	that DCA is the	and finally after		
28	prevailing party	much deliberation,		

1	LeVee	Plaintiff's Objection	ICANN's	Court's Ruling
2	Declaration	-	Response	_
	and its awards of	pursuant to Article		
3	costs to DCA.	IV, Section 3,		
4	(Id.¶150.)"	paragraph 11 (c) of		
5		ICANN's Bylaws, the Panel declares		
		that both the actions		
6		and inactions of the		
7		Board with respect to		
8		the application of		
9		DCA Trust related to		
		the .AFRICA gTLD		
10		were inconsistent with the Articles of		
11		Incorporation and		
12		Bylaws of ICANN.		
		149. Furthermore,		
13		pursuant to Article		
14		IV, Section 3,		
15		paragraph 11 (d) of ICANN's Bylaws,		
16		the Panel		
		recommends that		
17		ICANN continue to		
18		refrain from		
19		delegating the		
20		.AFRICA gTLD and permit DCA		
		Trust's application to		
21		proceed through the		
22		remainder of the new		
23		gTLD application		
		process.")].		
24	<b>¶13:</b> "In sum, the	The IRP Panel	ICANN agrees that	
25	IRP Panel made no	Declaration is the	the Panel	
26	findings	best evidence of the	declaration is the	
27	whatsoever	document [Fed. R.	best evidence of	
	concerning	Evid. 1002; Bekele	the document.	
28	ICANN's	Decl. ¶5, Ex. 1, ¶148		

1	LeVee	Plaintiff's Objection	ICANN's	Court's Ruling
2	Declaration	3	Response	
	processing of	("148. Based on the		
3	either Plaintiff's	foregoing, after		
4	Application or	having carefully		
_	ZACR's	reviewed the Parties'		
5	application for	written submissions,		
6	.AFRICA. Nor did	listened to the		
7	the IRP Panel	testimony of the		
	make findings that	three witness,		
8	could possibly be	listened to the oral		
9	construed to	submissions of the		
	remove or	Parties in various		
10	eliminate the	telephone conference		
11	Guidebook	calls and at the in-		
	requirement that an application for a	person hearing of this IRP in		
12	gTLD representing	Washington, D.C. on		
13	a geographic	22 and 23 May 2015,		
14	region (such as	and finally after		
	.AFRICA) must	much deliberation,		
15	obtain the support	pursuant to Article		
16	or non-objection of	-		
	at least 60% of the	paragraph 11 (c) of		
17	governments in	ICANN's Bylaws,		
18	that region. As a	the Panel declares		
10	result, DCA's	that both the actions		
19	(apparent)	and inactions of the		
20	argument that it	Board with respect to		
21	should be allowed	the application of		
	to skip this	DCA Trust related to		
22	essential	the .AFRICA gTLD		
23	Guidebook	were inconsistent		
	requirement does	with the Articles of		
24	not find support in the IRP Panel's	Incorporation and		
25	declaration. To the	Bylaws of ICANN].		
26	contrary, the net			
	effect of the IRP			
27	Panel declaration			
28	was that the Panel			
-		l		

1	LeVee	Plaintiff's Objection	ICANN's	Court's Ruling
2	Declaration		Response	
	wanted DCA to			
3	have another			
4	opportunity to			
5	meet that			
3	requirement and			
6	any other			
7	requirements that			
	DCA had not yet			
8	been able to meet (or that I CANN			
9	had not yet			
10	evaluated)."			
10	¶14: "In its briefs	The IRP Panel	ICANN agrees that	
11	to the IRP Panel,	Declaration is the	the various	
12	ICANN argued	best evidence of the	declarations of the	
	that IRP panel	document [Fed. R.	IRP Panel are the	
13	declarations were	Evid. 1002; Bekele	best evidence of	
14	not binding on	Decl. ¶5, Ex. 1), ¶¶	the Panel's	
15	ICANN's Board.	23(115) 70, 73 & 74	decisions.	
	ICANN's argument	("23(115). Moreover,		
16	was based, in part,	assuming for the		
17	on the fact that the	sake of argument that		
18	only previous IRP declaration to have	it is acceptable for ICANN to adopt a		
	been issued (as of	remedial		
19	that time)	scheme with no		
20	expressly found	teeth, the Panel is of		
	that IRP Panel	the opinion that, at a		
21	declarations are not	minimum, the IRP		
22	binding. The IRP	should forthrightly		
23	Panel disagreed,	explain and		
	however, and in a	acknowledge that the		
24	14 August 2014	process is merely		
25	declaration on	advisory. This would		
	procedural issues	at least let parties know before		
26	("Procedural Declaration"), the	embarking on a		
27	IRP Panel	potentially expensive		
28	determined that its	process that a victory		
		r-stable mark a victory		

1	LeVee	Plaintiff's Objection	ICANN's	Court's Ruling
2	Declaration		Response	
3	declaration would	before the IRP panel		
	be binding on	may be ignored by		
4	ICANN's Board.	ICANN. And, a		
5	The portions of the Procedural	straightforward acknowledgement		
6	Declaration that	that the IRP process		
	address this point	is intended to be		
7	are reproduced at	merely advisory		
8	paragraph 23	might lead to a		
9	(pages 5-6) of the	legislative or		
	IRP Panel's Declaration."	executive initiative to		
10	Deciaration.	create a truly independent		
11		compulsory process.		
12		The Panel seriously		
		doubts that the		
13		Senators		
14		questioning former		
15		ICANN President		
16		Stuart Lynn in 2002 would have been		
		satisfied had they		
17		understood that a)		
18		ICANN had imposed		
19		on all applicants a		
		waiver of all judicial		
20		remedies, <i>and</i> b) the IRP process touted		
21		by ICANN as the		
22		'ultimate guarantor'		
		of ICANN		
23		accountability was		
24		only an advisory		
25		process, the benefit		
26		of which is accrued to ICANN. 70. In the		
		Panel's view, Article		
27		IV, Section 3, and		
28		Paragraph 4 of		

1	LeVee	Plaintiff's Objection	ICANN's	Court's Ruling
2	Declaration		Response	
3		ICANN's Bylaws		
		(reproduced above) –		
4		the Independent Review Process –		
5		was designed and set		
6		up to offer the		
		Internet community,		
7		a de novo, objective		
8		and independent		
9		accountability		
		process that would ensure		
10		that ICANN acted in		
11		a manner consistent		
12		with ICANN's		
13		Articles of		
		Incorporation and		
14		Bylaws. 73. Thus,		
15		assuming that the foregoing waiver		
16		[Prospective		
		Release] of any and		
17		all judicial remedies		
18		is valid and		
19		enforceable, then the		
20		only and ultimate "accountability"		
		remedy for an		
21		applicant is the IRP.		
22		74. As previously		
23		decided by this		
		Panel, such		
24		accountability		
25		requires an organization to		
26		explain or give		
		reasons for its		
27		activities, accept		
28		responsibility for		

- 12 -

1	LeVee	Plaintiff's Objection	ICANN's	Court's Ruling
2	Declaration		Response	
3		them and to disclose		
		the results in a transparent		
4		manner."].		
5		-		
6	¶15: "Following	The IRP Panel	The <i>DCA</i> Panel's	
7	the IRP Panel's Declaration,	Declaration is the best evidence of the	Declaration contains no	
	another IRP panel	document [Fed. R.	evidence regarding	
8	addressed the issue	Evid. 1002; Bekele	the determinations	
9	and concluded that	Decl. ¶5, Ex. 1].	of subsequent IRP	
10	IRP panel	Moreover the other	panels. Nor is it	
11	declarations were	panel declaration referenced here is	evidence regarding the ICANN	
	not binding on ICANN's Board.	irrelevant and	Board's action	
12	Most importantly,	prejudicial [Fed. R.	with respect to that	
13	however, the	Evid. 403]. It is also	declaration.	
14	question of	irrelevant that		
15	whether the IRP	ICANN adopted the	Plaintiff's claims	
	Panel's declaration was considered	findings of the IRP because they did not	are based in part on its allegation that	
16	binding in	follow the IRP's	ICANN's Board	
17	conjunction with	ruling, as explained	failed to adhere to	
18	DCA' s IRP	in DCA's initial	the findings of the	
	became a moot	motion and reply	DCA Panel. (See,	
19	point when	brief.	e.g., FAC ¶¶ 57,	
20	ICANN's Board elected to adopt all		60, 81.) Plaintiff even brings a claim	
21	of the findings and		for declaratory	
22	recommendations		relief seeking	
	in the IRP Panel's		"confirmation of	
23	Declaration. A		[the] IRP	
24	copy of the		declaration." ( <i>Id</i> .	
25	resolution by ICANN's Board		¶¶ 115-18.) As such, Mr. LeVee's	
26	adopting the IRP		testimony	
	Panel's Declaration		regarding the	
27	is attached as		Board's acceptance	
28	Exhibit B to the		of the <i>DCA</i> Panel's	

1 2	LeVee Declaration	Plaintiff's Objection	ICANN's Response	Court's Ruling	
3 4	concurrently-filed Declaration of Akram Atallah."		Final Declaration is relevant.		
5 6	Dated: March 28,	2016 Jo	ONES DAY		
7 8	By: <u>/s/ Jeffrey A. LeVee</u> Jeffrey A. LeVee				
9	Attorneys for Defendant INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS				
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