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10	ZA Central Registry, 141 C			
11				
12	UNITED STATES	DISTRICT	COURT	
13	CENTRAL DISTRICT OF CAL	IFORNIA –	WESTERN DIVISION	
14				
15	DOTCONNECTAFRICA TRUST, a	CASE NO.	2:16-cv-00862 RGK (JCx)	
16	Mauritius Charitable Trust,	Assigned fo	r all purposes to the	
17	Plaintiff,	Honorable .	R. Gary Klausner	
18	V.	ZA CENTI	RAL REGISTRY, NPC'S	
19	INTERNET CORPORATION FOR	REPLY IN	SUPPORT OF MOTION	
20	ASSIGNED NAMES AND		RVENE PURSUANT TO	
21	NUMBERS; a California corporation; DOES 1 through 50, inclusive,	RULE 24		
22	Defendants.			
23		Date:	September 19, 2016	
		Time:	9:00 a.m.	
24		Location:	Courtroom 850	
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27				
28				

1 In its response to ZA Central Registry, NPC's ("ZACR") motion to intervene, Plaintiff DotConnectAfrica Trust ("DCA") asserts that it "does not 2 oppose ZACR's permissive intervention in this matter." Resp. Brief at 1. DCA 3 further concedes that ZACR has an important interest in this litigation. See id. at 4 3 ("... DCA does not dispute that ZACR has a right to intervene in this suit 5 pursuant to its interest in ICANN's delegation of the .Africa gTLD."). 6 7 Accordingly, because the real parties-in-interest, DCA and defendant Internet Corporation for Assigned Names and Numbers ("ICANN"), do not dispute that 8 9 ZACR has significant interests implicated by this litigation, ZACR's motion to intervene should be granted.1 10 11 Apart from factually incorrect and irrelevant characterizations regarding the status of ZACR's application for the .Africa gTLD, 2 DCA's only caveat to the 12 Court granting the motion is its assertion that ZACR should not be deemed a 13 "required party" because that "could impair this Court's jurisdiction." Resp. Brief 14 at 4. However, to the extent there is a potential concern about the Court's 15 16 jurisdiction, it is an issue entirely of DCA's own making. DCA could have sued ICANN without including equitable claims that seek to, among other things, 17 invalidate the registry agreement between ZACR and ICANN. See FAC ¶ 132 18 ("Plaintiff seeks a judicial declaration that the registry agreement between ZACR 19 and ICANN be declared null and void and that ZACR's application does not meet 20 21 ICANN standards."). It is DCA's insistence on maintaining these claims for declaratory relief, which directly implicate ZACR's existing contract rights with 22 23 As noted in ZACR's opening papers, ICANN previously advised that it 24 does not oppose ZACR's motion to intervene. DCA's various assertions that "ZACR did not meet all of ICANN's 25 requirements" is simply wrong. DCA's desperate effort to sidestep its own lack of 26 required support among the African governments by raising doubts about ZACR's prevailing bid is without merit. But these assertions have no bearing on the legal 27

the assertions at the appropriate time.

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issue before the Court on this motion. Accordingly, ZACR will properly address

ICANN, that potentially put this Court's subject matter jurisdiction at issue. See,			
e.g., Dawavendewa v. Salt River Project Agric. Improvement & Power Dist., 276			
F.3d 1150, 1156-57 (9th Cir. 2005) (party to contract is necessary where the			
litigation seeks to "decimate the contract"). If DCA voluntarily dismisses the			
ninth and tenth causes of action for declaratory relief then any concern about the			
Court's subject matter jurisdiction should be alleviated. Otherwise, ZACR agrees			
with DCA's suggestion that the parties should separately and fully brief whether			
this Court's subject matter jurisdiction may be impacted by the fact that DCA and			
ZACR are both foreign entities. See 28 U.S.C. 1332(a)(2); Craig v. Atlantic			
Richfield Co., 19 F.3d 472, 476 (9th Cir. 1994).			
For now, however, there is no dispute among the parties that ZACR has a			
significant and vested interest in this litigation. Accordingly, ZACR respectfully			
contends that its motion to intervene should be granted.			
DATED: September 2, 2016 Respectfully submitted,			
KESSELMAN BRANTLY STOCKINGER LLP			
By: <u>/s/ David W. Kesselman</u>			
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