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9			
10	SUPERIOR COURT OF T		
11	COUNTY OF LOS A	ANGELES - (CENTRAL
12	DOTCONNECTAFRICA TRUST, a Mauritius Charitable Trust,	CASE NO. E	
13	Plaintiff,	Assigned to to Dept. 53	he Hon. Howard L. Halm,
14	V.	ZA CENTR	AL REGISTRY, NPC'S
15	INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS; a		TO PLAINTIFF'S ARY OBJECTIONS TO
16	California corporation; ZA Central Registry, a South African non-profit company; DOES		ΓΙΟΝ OF MOCTAR YEDALY
17	1 through 50, inclusive,		
18 19	Defendants.	Date: Time:	December 22, 2016 8:29 a.m.
20		Dept.:	53
21		J	
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ZACR RESPONSE TO DCA'S EVID. OBJS. TO MOCTAR YEDALY DECL.

Defendant ZA Central Registry, NPC ("ZACR") submits its responses to the evidentiary objections to the Declaration of Moctar Yedaly ("Yedaly Declaration") filed by Plaintiff DOTCONNECTAFRICA Trust ("DCA"). As an initial matter, DCA objects to the entire Yedaly Declaration arguing that his declaration is misleading in that it fails to state that ZACR agreed to grant the African Union Commission ("AUC") any rights to the gTLD . Africa and that the AUC is effectively itself an applicant for the . Africa gTLD. Plaintiff's objection that Mr. Yedaly's testimony is "misleading" is argumentative and not a proper objection under § 352 of the California Evidence Code. Plaintiff's improper arguments in the guise of evidentiary objections should be disregarded. Moreover, whether ZACR agreed to grant any rights to the gTLD . Africa to the AUC or not is immaterial. ICANN does not prohibit such assignments. *See* Brantly Decl. Ex. 2 (Willett Tr. at 48:9-49:19); Ex. 3 (Attallah Tr. at 129:2-130:2).

Yedaly Decl.	DCA's Objection	ZACR's Response	Court's Ruling
¶3:"Notwithstanding	1. DCA objects on	The Court may refer	
this, the Government	the grounds that the	to the letter to	
of Morocco provided	letter of support from	support from the	
its letter of support	the Moroccan	Moroccan	
for ZACR's	government is the	government which is	
application for the	best evidence of that	in the record. Yedaly	
.AFRICA TLD."	letter. (Evid. Code	Decl. Ex. F.	
	§1520).		
	2. Lacks Foundation	Mr. Yedaly's	
	(Evid. Code § 403)	testimony is not	
	3. Conclusory	offered to prove the	
	(Evinger v.	content of a writing,	
	MacDougall (1938)	but rather as	
	28 Cal.App.2d 175.)	evidence that the	
		Moroccan	

$_{1}\parallel$			government provided	
$_{2}\parallel$			its support for	
3			ZACR's application.	
4	Yedaly Decl.	DCA's Objection	ZACR's Response	Court's Ruling
5	¶6: "I have been	1. Lacks personal	Mr. Yedaly testified	
6	integrally involved in	knowledge (Evid.	that he is the Head of	
7	the UAC's efforts to	Code § 702),	the Information	
8	support the	2. Lacks foundation	Society Division	
9	delegation of a	(Evid. Code § 403),	within the AUC's	
10	.AFRICA top level	3. Speculative (Evid.	Infrastructure and	
11	domain for the	Code § 702	Energy Department	
12	African continent.	4. Lacks Foundation	and that he has been	
13	This initiative is fully	(Evid. Code § 403)	integrally involved in	
14	endorsed by the	5. Conclusory	the AUC's efforts	
15	African Union and	(Evinger	with respect to	
16	has widespread	v. MacDougall	.Africa. (Yedaly	
17	support across the	(1938)	Decl. ¶¶1,6)	
18	continent. The launch	28 Cal.App.2d 175.)	Accordingly, he has	
19	of the .AFRICA	6. Improper lay	personal knowledge	
20	domain is of historic	opinion (Evid. Code	of the AUC's	
21	significance to the	§ 800-803)	member states' views	
22	African continent.		and goals with	
23	With the goal of		respect to the .Africa	
24	establishing "Africa		gTLD.	
25	in One Space",			
26	.AFRICA will			
27	provide secure,			
28				

1	world-class technical	
2	infrastructure to	
3	leverage the	
4	continent's socio-	
5	economic capacity	
6	and potential. Built	
7	on a consensus-	
8	driven framework of	
9	best practices and	
10	open standards, the	
11	.Africa Registry will	
12	place special	
13	emphasis on securing	
14	the rights of	
15	intellectual property	
16	owners, Internet	
17	users and the broader	
18	African community.	
19	The .AFRICA gTLD	
20	will enable	
21	governments,	
22	business and civil	
23	society to build	
24	brands, promote	
25	development and	
26	establish long-term	
27	relationships with	
28	this market. The	
	- 3 -	
	ZACR RESPONSE TO DCA'S EVID. OBJS. TO MOCTAR YEDALY DECL.	
''		

[]				
1	.AFRICA gTLD will			
2	also help			
3	governments, the			
4	private sector,			
5	organizations and			
6	individuals associate			
7	their services,			
8	product and			
9	information with the			
10	continent.			
11	Yedaly Decl.	DCA's Objection	ZACR's Response	Court's Ruling
12	¶8: "Pursuant to that	1. Lacks foundation	Mr. Yedaly testified	
13	mandate, the AUC	(Evid. Code § 403)	that he is the Head of	
14	issued a public	2. Prejudicial (Evid.	the Information	
15	request for	Code § 352)	Society Division	
16	expressions of		within the AUC's	
17	interest, followed by		Infrastructure and	
18	a request for		Energy Department	
19	proposals, ("RFP		and that he has been	
20	process") seeking		integrally involved in	
21	applications from		the AUC's efforts	
22	private organizations		with respect to	
23	(including DCA		.Africa. (Yeadly	
24	interested in		Declaration ¶¶1, 6).	
25	operating the			
26	.AFRICA gTLD)."		Mr. Yedaly's	
27			testimony is not	
28				

- 11				
1			prejudicial;	
2			Mr. Yedaly's	
3			testimony	
4			demonstrates	
5			Plaintiff's lack of	
6			governmental	
7			support and is	
8			relevant to Plaintiff's	
9			likelihood of success	
10			on the merits.	
11	Yedaly Decl.	DCA's Objection	ZACR's Response	Court's Ruling
12	¶9: "The AUC	1. Best evidence of	The Court may refer	
13	letter was sent to	the document is the	to the AUC letter	
14	DCA years before	document itself	which is in the	
15	ICANN had issued	(Evid. Code § 1520)	record. Yedaly	
16	the governing		Decl.,Ex. B.	
17	Guidebook and put			
18	out a formal bid for		Mr. Yedaly's	
19	new gTLD		testimony is not	
20	applications. Once		offered to prove the	
21	the AUC recognized		content of the letter,	
22	that ICANN was		but rather as	
23	moving forward with		evidence that the	
24	the new gTLD		letter was sent to	
25	process and likely		DCA years before	
26	would allow the		the governing	
27	.AFRICA gTLD to			
28				

$_{1}\parallel$	become a reality, the		ICANN Guidebook	
$_{2}\parallel$	AUC determined that		issued.	
3	a fully vetted and			
4	transparent process			
5	was needed for the			
6	governments of			
7	Africa to provide			
8	proper support to an			
9	applicant seeking to			
10	serve as a registry for			
11	a gTLD that would			
12	represent the entire			
13	continent."			
14	Yedaly Decl.	DCA's Objection	ZACR's Response	Court's Ruling
15	¶10: "[O]n April 16,	1. The best evidence	The Court may refer	
15 16	¶10: "[O]n April 16, 2010, the AUC sent	1. The best evidence of the April 16, 2010	The Court may refer to the letter, which is	
	· -			
16	2010, the AUC sent	of the April 16, 2010	to the letter, which is	
16 17	2010, the AUC sent DCA a letter	of the April 16, 2010 letter is the April 16,	to the letter, which is part of the record	
16 17 18	2010, the AUC sent DCA a letter informing it that	of the April 16, 2010 letter is the April 16, 2010 letter itself	to the letter, which is part of the record (Declaration of	
16 17 18 19	2010, the AUC sent DCA a letter informing it that 'following	of the April 16, 2010 letter is the April 16, 2010 letter itself	to the letter, which is part of the record (Declaration of Sophia Bekele	
16 17 18 19 20	2010, the AUC sent DCA a letter informing it that 'following consultations with	of the April 16, 2010 letter is the April 16, 2010 letter itself	to the letter, which is part of the record (Declaration of Sophia Bekele	
16 17 18 19 20 21	2010, the AUC sent DCA a letter informing it that 'following consultations with relevant	of the April 16, 2010 letter is the April 16, 2010 letter itself	to the letter, which is part of the record (Declaration of Sophia Bekele	
16 17 18 19 20 21 22	2010, the AUC sent DCA a letter informing it that 'following consultations with relevant stakeholders[it] no	of the April 16, 2010 letter is the April 16, 2010 letter itself	to the letter, which is part of the record (Declaration of Sophia Bekele	
16 17 18 19 20 21 22 23	2010, the AUC sent DCA a letter informing it that 'following consultations with relevant stakeholders[it] no longer endorse[d]	of the April 16, 2010 letter is the April 16, 2010 letter itself	to the letter, which is part of the record (Declaration of Sophia Bekele	
16 17 18 19 20 21 22 23 24	2010, the AUC sent DCA a letter informing it that 'following consultations with relevant stakeholders[it] no longer endorse[d] individual initiates	of the April 16, 2010 letter is the April 16, 2010 letter itself	to the letter, which is part of the record (Declaration of Sophia Bekele	
16 17 18 19 20 21 22 23 24 25	2010, the AUC sent DCA a letter informing it that 'following consultations with relevant stakeholders[it] no longer endorse[d] individual initiates [for .AFRICA].'	of the April 16, 2010 letter is the April 16, 2010 letter itself	to the letter, which is part of the record (Declaration of Sophia Bekele	

1	Member Statesthe
2	[AUC] w[ould] go
3	through [an] open
4	[selection] process.'
5	This letter is attached
6	as Exhibit 7 to the
7	Declaration of
8	Sophia Bekele
9	Eshete (ECF No. 17-
10	7). One of the
11	purposes of this letter
12	was to advise DCA
13	that the AUC was
14	withdrawing any
15	previous support the
16	AUC had announced
17	for DCA now that
18	the AUC was more
19	fully engaged and
20	had determined to
21	conduct an open
22	selection process to
23	identify the registry
24	operator that the
25	AUC would endorse.
26	
27	
28	
	<u>-7 -</u>
	ZACR RESPONSE TO DCA'S EVID. OBJS. TO MOCTAR YEDALY DECL.

1	Yedaly Decl.	DCA's Objection	ZACR's Response	Court's Ruling
2	¶11: "DCA	1. The best evidence	The Court may refer	
3	acknowledged that it	of the January 26,	to the letter, which is	
4	was aware the AUC	2011 letter, is the	part of the record	
5	had withdrawn any	letter itself. (Evid.	(Yedaly Declaration	
6	previous support	Code § 1520).	Ex. D).	
7	because it wrote a	2. Lacks foundation		
8	letter to the AUC on	as to DCA's	Mr. Yedaly testified	
9	January 26, 2011	awareness or	that he is the Head of	
10	complaining about	ZACR's fulfillment	the Information	
11	what it believed to be	of ICANN's	Society Division	
12	the "wrongful	Guidebook	within the AUC's	
13	withdrawal of [the	requirements. (Evid.	Infrastructure and	
14	AUC endorsement	Code §403).	Energy Department	
15	letter." A true and	3. Lacks credibility	and that he has been	
16	correct copy of	as Mark McFadden's	integrally involved in	
17	DCA's January 26,	declaration directly	the AUC's efforts	
18	2011 letter is	contradicts the	with respect to	
19	attached hereto as	statement that	.Africa. (Yedaly	
20	Exhibit D.	"ZACR submitted an	Declaration ¶¶1, 6).	
21	Thereafter, DCA	application to		
22	chose not to	ICANN for the	Mr. Yedaly's	
23	participate in the	.Africa gTLD with	testimony is credible	
24	AUC's RFP process.	the full support of the	and consistent	
25	ZA Central Registry	AUC and with more	because ZACR had	
26	("ZACR"), which	than 60% support	the support of the	
27	was previously	from individual	AUC throughout the	
28				

1	known as UniForum	African Governments	application process	
2	SA, prevailed in the	as required by the	(Yedaly Declaration	
3	RFP Process, and	new gTLD	¶¶ 9-11).	
4	ZACR submitted an	Applicants'		
5	application to	Guidebook." See	Mr. McFadden's	
6	ICANN for the	McFadden Decl. ¶5.	testimony does not	
7	.Africa gTLD with	Yedaly's next	conflict;	
8	the full support of the	statement in the	Mr. McFadden	
9	AUC and with more	declaration also	testified only that	
10	than 60% support	contradicts this	ZACR's initial AUC	
11	from individual	assertion. See Yedaly	endorsement letter	
12	African Governments	Decl. ¶12. (People v.	did not meet all of	
13	as required by the	Skyes, 44 Cal. 2d	the Guidebook	
14	new gTLD	166,172 (1955)	requirements.	
15	Applicants'	(holding that prior		
16	Guidebook."	inconsistent	Mr. Yedaly's	
17		statements may	Declaration	
18		impeach credibility)).	acknowledges this	
19			(Yedaly Declaration	
20			¶ 12).	
21	Yedaly Decl.	DCA's Objection	ZACR's Response	Court's Ruling
22	¶12: "On July 2,	1. The best evidence	The Court may refer	
23				
ال م	2013, the AUC,	of the document, is	to the letters, which	
24	2013, the AUC, pursuant to the Abuja	of the document, is the document itself.	to the letters, which are part of the record	
25				
	pursuant to the Abuja	the document itself.	are part of the record	
25	pursuant to the Abuja Declaration and with	the document itself.	are part of the record (Yedaly Declaration	

1	letter to ICANN		
2	expressly advising		
3	that the AUC had		
4	placed its full		
5	support behind		
6	ZACR's application.		
7	(At the time ZACR		
8	was known as		
9	UniForum SA).		
10	Attached hereto as		
11	Exhibit E is a true		
12	and correct copy of		
13	the July 2, 2013		
14	letter expressing the		
15	AUC's support for		
16	ZACR's application.		
17	I am further informed		
18	that Morocco, the		
19	only nonmember of		
20	the AUC, separately		
21	provided a letter		
22	supporting ZACR's		
23	application. Attached		
24	hereto as Exhibit F		
25	is a true and correct		
26	copy of the March		
27	28, 2012 letter from		
28	Morocco. It should		

1	be noted that the	
2	AUC had provided	
3	an earlier	
4	endorsement letter	
5	for ZACR dated	
6	April 4, 2012.	
7	Attached hereto as	
8	Exhibit G is a true	
9	and correct copy of	
10	that earlier letter.	
11	After ZACR had	
12	been informed that	
13	the earlier letter	
14	failed to include	
15	additional language	
16	that ICANN or its	
17	vendor deemed	
18	necessary to comply	
19	with the Guidebook,	
20	the AUC undertook	
21	to submit the July 2,	
22	2013 letter. In so	
23	doing, the AUC had	
24	asked ZACR to	
25	provide the language	
26	that was deemed	
27	necessary. ICANN	
28	then provided the	

1	required language;			
2	that language was			
3	ultimately			
4	incorporated into the			
5	July 2, 2013 AUC			
6	endorsement letter."			
7	Yedaly Decl.	DCA's Objection	ZACR's Response	Court's Ruling
8	¶13: The AUC never	1. Irrelevant. (Evid.	Mr. Yedaly testified	
9	supported DCA's	Code § 350);	that he is the Head of	
10	application at any	2. Lacks personal	the Information	
11	time after April 16,	knowledge (Evid.	Society Division	
12	2010, and certainly	Code § 702),	within the AUC's	
13	not at any time after	3. Lacks foundation	Infrastructure and	
14	ICANN issued its	(Evid. Code § 403),	Energy Department	
15	Applicant's	4. Speculative (Evid.	and that he has been	
16	Guidebook and	Code § 702)	integrally involved in	
17	invited new	5. Conclusory	the AUC's efforts	
18	applicants to apply	(Evinger v.	with respect to	
19	for gTLDs, including	MacDougall (1938)	.Africa. (Yedaly	
20	.AFRICA. Thus, the	28 Cal.App.2d 175.)	Declaration ¶¶1, 6).	
21	AUC did not support	6. The GAC Early		
22	DCA's application	Warning Notices	The ICANN	
23	for .AFRICA at the	themselves are the	Guidebook requires	
24	time DCA submitted	best evidence of the	that the applicant for	
25	it to ICANN in 2012,	notices. (Evid. Code	.Africa demonstrate	
26	and it does not	§ 1520).	support from at least	
27	support DCA's		60% of the countries	
28				

1			
1	application now. It	in Africa.	
2	should be noted that	Declaration of	
3	DCA never requested	Sophia Bekele	
4	a letter of support	Eschete Ex. 3 at 2-	
5	from the AUC after	18. The Early	
6	ICANN issued its	Warning Notices are	
7	Guidebook in 2012,	thus relevant to show	
8	and the AUC would	that DCA did not	
9	have declined such a	have the support of	
10	request because	the governments in	
11	following the RFP	Africa.	
12	process the AUC had		
13	determined only to	The Court may refer	
14	support ZACR's	to the Early Warning	
15	application. The	Notices, which are	
16	strong feelings of the	part of the record	
17	African governments	(Yedaly Declaration	
18	on this matter can	Ex. H).	
19	also be gleaned by		
20	the 17 (seventeen)		
21	GAC Early Warning		
22	Notices issued by		
23	individual African		
24	governments that		
25	were issued against		
26	DCA's application		
27	for .AFRICA.		
28	Attached hereto as		

1	Exhibit H are true			
2	and correct copies of			
3	the GAC Early			
4	Warning Notices.			
5	Yedaly Decl.	DCA's Objection	ZACR's Response	Court's Ruling
6	¶14: On September	1. The best evidence	The Court may refer	
7	29, 2015, the AUC	of the "early letter" is	to the "early letter,"	
8	sent a further letter to	the letter itself.	which is part of the	
9	ICANN to clarify,	(Evid. Code § 1520).	record (Declaration	
10	once again, that the		of Sophia Bekele	
11	AUC, on behalf of		Eschete Ex. 7).	
12	the African			
13	governments, only			
14	supports ZACR's			
15	application and does			
16	not support the			
17	application submitted			
18	by DCA. Attached			
19	hereto as Exhibit I is			
20	a true and correct			
21	copy of the AUC's			
22	letter of September			
23	29, 2015. The AUC			
24	deemed this			
25	additional letter			
26	necessary after it			
27	came to light that			
28				

1	DCA was still	
2	attempting to use an	
3	early letter that had	
4	been expressly	
5	withdrawn and	
6	repudiated. As	
7	addressed in the	
8	September 29, 2015	
9	AUC letter:	
10	• "To be clear, the	
11	application submitted	
12	by ZA Central	
13	Registry (ZACR)	
14	is the only	
15	application fully	
16	endorsed and	
17	supported by the	
18	AUC and hence	
19	African member	
20	states. The AUC	
21	officially endorsed	
22	the ZACR	
23	application in our	
24	letter dated 4 April	
25	2012, which was	
26	followed by our	
27	letter of support	
28	dated 2 July 2013."	

1	• "Any reliance			
2	by DCA in its			
3	application			
4	proclaiming support			
5	or endorsement by			
6	the AUC, must be			
7	dismissed. The AUC			
8	does not support the			
9	DCA application			
10	and, if any such			
11	support was initially			
12	provided, it has			
13	subsequently been			
14	withdrawn with the			
15	full knowledge of			
16	DCA even prior to			
17	the commencement			
18	of ICANN's new			
19	gTLD application			
20	process."			
21	Yedaly Decl.	DCA's Objection	ZACR's Response	Court's Ruling
22				
23	¶15: I should also	1. The best evidence	The Court may refer	
	¶15: I should also note that, on or about	of the letter is the	to the letter which is	
24			•	
24 25	note that, on or about	of the letter is the	to the letter which is	
	note that, on or about July 20, 2015, the	of the letter is the letter itself. (Evid.	to the letter which is part of the record	
25	note that, on or about July 20, 2015, the AUC received a	of the letter is the letter itself. (Evid.	to the letter which is part of the record (Yedaly Declaration	

	1				
1	Commission and				
2	Legal Advisor for the				
3	United Nations				
4	Economic				
5	Commission for				
6	Africa ("UNECA").				
7	A true and correct				
8	copy of the July 20,				
9	2015 UNECA letter				
10	is attached hereto as				
11	Exhibit J. As set				
12	forth in the letter,				
13	UNECA "reaffirmed				
14	its commitment and				
15	support to the AU in				
16	the management of				
17	Internet-based				
18	resources in Africa",				
19	and further advised				
20	that an earlier 2008				
21	UNECA letter				
22	referenced by DCA				
23	could not constitute a				
24	proper endorsement				
25	by the governments				
26	of Africa:				
27	• "ECA as United				
28	Nations entity is				
		- 17 -			
	ZACR RESPONSE TO DCA'S EVID. OBJS. TO MOCTAR YEDALY DECL.				

1	neither a government
2	nor a public authority
3	and therefore is not
4	qualified to issue a
5	letter of support for a
6	prospective applicant
7	in support of their
8	application. In
9	addition, ECA does
10	not have a mandate
11	to represent the
12	views or convey the
13	support or otherwise
14	of African
15	governments in
16	matters relating to
17	application for
18	delegation of the
19	gTLD."
20	• "In this regard,
21	the August 2008
22	letter referenced
23	above is merely
24	expressions of a view
25	in relation to the
26	entity's initiatives
27	and efforts regarding
28	internet governance,

1	including efforts to			
2	obtain a gTLD for			
3	Africa. It is ECA's			
4	position that the			
5	August 2008 letter to			
6	Ms. Bekele [later			
7	used by DCA]			
8	cannot be properly			
9	considered as a			
10	"letter of support or			
11	endorsement" within			
12	the context of			
13	ICANN's			
14	requirements and			
15	cannot be used as			
15 16	cannot be used as such."			
		DCA's Objection	ZACR's Response	Court's Ruling
16	such."	DCA's Objection 1. Irrelevant. (Evid.	ZACR's Response Evidence regarding	Court's Ruling
16 17	such." Yedaly Decl.	-	_	Court's Ruling
16 17 18	yedaly Decl. ¶16: ZACR has	1. Irrelevant. (Evid.	Evidence regarding	Court's Ruling
16 17 18 19	Yedaly Decl. ¶16: ZACR has signed a registry	1. Irrelevant. (Evid. Code § 350);	Evidence regarding the harm to ZACR is	Court's Ruling
16 17 18 19 20	yedaly Decl. ¶16: ZACR has signed a registry agreement with	 Irrelevant. (Evid. Code § 350); Lacks personal 	Evidence regarding the harm to ZACR is material in refuting	Court's Ruling
16 17 18 19 20 21	Yedaly Decl. ¶16: ZACR has signed a registry agreement with ICANN, and I am	 Irrelevant. (Evid. Code § 350); Lacks personal knowledge (Evid. 	Evidence regarding the harm to ZACR is material in refuting Plaintiff's argument	Court's Ruling
16 17 18 19 20 21 22	yedaly Decl. ¶16: ZACR has signed a registry agreement with ICANN, and I am informed that ZACR	 Irrelevant. (Evid. Code § 350); Lacks personal knowledge (Evid. 	Evidence regarding the harm to ZACR is material in refuting Plaintiff's argument that the balance of	Court's Ruling
16 17 18 19 20 21 22 23	yedaly Decl. ¶16: ZACR has signed a registry agreement with ICANN, and I am informed that ZACR is fully prepared to	 Irrelevant. (Evid. Code § 350); Lacks personal knowledge (Evid. 	Evidence regarding the harm to ZACR is material in refuting Plaintiff's argument that the balance of the harms weighs in	Court's Ruling
16 17 18 19 20 21 22 23 24	Yedaly Decl. ¶16: ZACR has signed a registry agreement with ICANN, and I am informed that ZACR is fully prepared to proceed once	 Irrelevant. (Evid. Code § 350); Lacks personal knowledge (Evid. 	Evidence regarding the harm to ZACR is material in refuting Plaintiff's argument that the balance of the harms weighs in	Court's Ruling
16 17 18 19 20 21 22 23 24 25	yedaly Decl. ¶16: ZACR has signed a registry agreement with ICANN, and I am informed that ZACR is fully prepared to proceed once ICANN is able to	 Irrelevant. (Evid. Code § 350); Lacks personal knowledge (Evid. 	Evidence regarding the harm to ZACR is material in refuting Plaintiff's argument that the balance of the harms weighs in its favor.	Court's Ruling

		ı		
1			the Information	
2			Society Division	
3			within the AUC's	
4			Infrastructure and	
5			Energy Department	
6			and that he has been	
7			integrally involved in	
8			the AUC's efforts	
9			with respect to	
10			.Africa. (Yedaly	
11			Declaration ¶¶1, 6).	
12	Yedaly Decl.	DCA's Objection	ZACR's Response	Court's Ruling
13	¶17: On June 2, 2014	1. The best evidence	The Court may refer	
14	more than two	of the letter is the	to the letter, which is	
15	years ago – the AUC	letter itself. (Evid.	part of the record	
16	sent a letter to	Code § 1520).	(Yedaly Declaration	
17	ICANN explaining		Ex. K).	
18	"DotAfrica is an			
19	extremely important			
20	initiative for Africa's			
21	participation and			
22	contribution to the			
23	Internet economy			
24	and to the broader			
25	Internet governance			
26	ecosystem," and that			
27	it was "with great			
28				

1	concern that we are	
2	faced with [] delay in	
3	delegating this	
4	important regional	
5	TLD." Our letter	
6	continued: "[I]t is	
7	becoming	
8	increasingly difficult	
9	for the AUC to	
10	explain to not only	
11	its member states but	
12	also other African	
13	stakeholders, why	
14	the African	
15	geographic TLD	
16	application has	
17	become so	
18	challenging for	
19	ICANN to expedite	
20	despite the various	
21	statements made	
22	towards the need to	
23	support developing	
24	regions." A true and	
25	correct copy of this	
26	letter is attached to	
27	this declaration as	
28	Exhibit K.	

1	Yedaly Decl.	DCA's Objection	ZACR's Response	Court's Ruling
2	¶18: In my role at the	1. Lacks personal	Mr. Yedaly testified	
3	AUC, I communicate	knowledge (Evid.	that he is the Head of	
4	regularly with	Code § 702),	the Information	
5	political, business	2. Speculative (Evid.	Society Division	
6	and civic leaders	Code § 702)	within the AUC's	
7	from throughout the	3. Lacks Foundation	Infrastructure and	
8	African Union and	(Evid. Code § 403)	Energy Department	
9	its member states		and that he has been	
10	regarding the		integrally involved in	
11	.AFRICA gTLD. It is		the AUC's efforts	
12	evident that the		with respect to	
13	ongoing delay in the		.Africa. (Yedaly	
14	delegation of		Declaration ¶¶1, 6).	
15	.AFRICA is			
16	depriving the people			
17	of the African			
18	continent of an			
19	important			
20	opportunity to			
21	expand internet			
22	domain capabilities.			
23	There are real			
24	opportunities being			
25	lost because we			
26	remain unable to			
27	develop and promote			
<u>,</u>				

1	a gTLD that would	
2	be uniquely	
3	identified with the	
4	African continent. It	
5	is difficult to explain	
6	to African citizens	
7	why .AFRICA is not	
8	yet operational when	
9	other continents have	
10	their own unique	
11	gTLDs that have	
12	been available for	
13	years. It is	
14	particularly	
15	frustrating when I am	
16	informed that the	
17	delay is due to	
18	DCA's efforts to	
19	continue to rely upon	
20	a supposed	
21	endorsement by the	
22	AUC that was	
23	withdrawn over six	
24	years ago – a point	
25	that the AUC, on	
26	behalf of its	
27	representative	
28	governments, has	
	- 23 -	
	ZACR RESPONSE TO DCA'S EVID. OBJS. TO MOCTAR YEDALY DECL.	

1	repeatedly advised in			
2	the correspondence			
3	referenced above.			
4	Yedaly Decl.	DCA's Objection	ZACR's Response	Court's Ruling
5	¶19: In addition, the	1. Irrelevant. (Evid.	Mr. Yedaly testified	
6	AUC has required as	Code § 350);	that he is the Head of	
7	a condition to its	2. Lacks personal	the Information	
8	support of .AFRICA	knowledge (Evid.	Society Division	
9	that all surplus funds	Code § 702),	within the AUC's	
10	generated through	3. Lacks foundation	Infrastructure and	
11	the administration of	(Evid. Code § 403),	Energy Department	
12	the .AFRICA gTLD	4. Speculative (Evid.	and that he has been	
13	will be channeled	Code § 702)	integrally involved in	
14	into a Development		the AUC's efforts	
15	Fund, which will be		with respect to	
16	applied towards		.Africa. (Yedaly	
17	African		Declaration ¶¶1, 6).	
18	developmental			
19	projects and		Mr. Yedaly's	
20	initiatives. The		testimony is relevant	
21	Development Fund		because courts	
22	will be administered		consider "the degree	
23	by the dotAfrica		of adverse effect on	
24	Foundation, which		the public interest or	
25	will ensure that		interests of third	
26	dotAfrica's core		parties the granting	
27	developmental		of the injunction will	
28				

ı						
1	objectives are		cause." Loma Portal			
2	addressed. I am		Civic Club v.			
3	informed that these		American Airlines,			
4	projects and		Inc., 61 Cal. 2d 582,			
5	initiatives will		588 (1964).			
6	provide millions of	*				
7	dollars to benefit					
8	projects supporting					
9	the people of Africa.					
10	The continued delay					
11	in the delegation of					
12	the .AFRICA gTLD					
13	to ZACR has					
14	impeded this goal					
15	and further					
16	prejudices the AUC's	,				
17	member states and					
18	the African					
19	community.					
20						
21	DATED: December 21, 2016 KESSELMAN BRANTLY STOCKINGER LLP					
22	Oit4					

By:

David W. Kesselman Amy T. Brantly Kara D. McDonald Attorneys for Intervenor ZA Central Registry, NPC

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1		DDOOF OF CEDVICE				
1	PROOF OF SERVICE					
2 3	Dotconnectafrica Trust v. ICANN, et al. Los Angeles Superior Court, Central District Case No. BC607494					
4	STATE OF CALIFORNIA, COUNTY OF LOS ANGELES					
5	At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 1230 Rosecrans Avenue, Suite 690, Manhattan Beach, California 90266.					
6						
7	On December 21, 2016, I served true copies of following document(s) described as ZA CENTRAL REGISTRY, NPC'S RESPONSE TO PLAINTIFF'S EVIDENTIARY					
8	OBJECTIONS TO DECLARATION OF MOCTAR YEDALY on the interested parties in this action as follows:					
9						
10	Ethan J. Brown, Esq.		Attorneys for Plaintiff			
11	Sara C. Colón, Esq. BROWN NERI SMI					
12	11766 Wilshire Blvd., Ste. 1670 Los Angeles, CA 90025					
13	Email addresses:	ethan@bnsklaw.com sara@bnsklaw.com				
14	Jeffrey LeVee, Esq.		Attorneys for Defendant			
15	Rachel Gezerseh, Esq. Charlotte S. Wasserstein, Esq.		INTERNET CORPORATION FOR ASSIGNED NAMES AND			
16	Amanda Pushinsky, J JONES DAY	-	NUMBERS			
17	555 S. Flower Street, Los Angeles, CA 900					
18	Email addresses:	jlevee@jonesday.com rgezerseh@jonesday.com				
19		cswasserstein@jonesday.com apushinsky@jonesday.com				
20						
21	BY ELECTRONIC SERVICE: Pursuant to agreement of the parties, I caused the document to be sent to the email addresses listed above.					
22		I declare under penalty of perjury under the laws of the State of California that the				
23	foregoing is true and o	correct.				
24	Executed on December 21, 2016, at Manhattan Beach, California.					
25		Myrnin				
26	Melinda Quiane					
27						
- '						

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