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8	DOTCONNECTAFRICA TRUST	
9		
10	SUPERIOR COURT OF THE	E STATE OF CALIFORNIA
11	COUNTY OF LOS AN	GELES - CENTRAL
12	DOTCONNECTAFRICA TRUST, a Mauritius	Case No. BC607494
13	Charitable Trust;	Assigned for all purposes to the Honorable
14	Plaintiff,	Howard L. Halm
15	v.	EVIDENTIARY OBJECTIONS TO
16	INTERNET CORPORATION FOR	DECLARATION OF AKRAM ATALLAH IN SUPPORT OF ICANN'S OPPOSITION
17	ASSIGNED NAMES AND NUMBERS, a	TO PLAINTIFF'S MOTION FOR
18	California corporation;	PRELIMINARY INJUNCTION
19	Defendants.	DATE: December 22, 2016 TIME: 8:30 a.m.
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EVIDENTIARY OBJECTIONS TO DECLARTION OF AKRAM ATALLAH

Objections to Declaration of Akram Atallah

92: ICANN is a California not-for- profit public benefit corporation. ICANN oversees the technical coordination of the Internet's domain name system ("DNS") on behalf of the Internet community, ensuring the DNS's continued security, stability, and integrity. As set forth in the version of ICANN's Bylaws relevant to this dispute ("Bylaws"), ICANN's mission "is to coordinate, at the overall level, the global Internet's system of unique identifiers, and in particular to ensure the stable and secure operation of the Internet's unique identifier systems," including the DNS. Declaration of Sophia Bekele Eshete ("Bekele Decl."), Ex. 4 (Bylaws, Art. I, § 1). ICANN's amended Bylaws became effective October 1, 2016, and DCA does not contend that the amended Bylaws are relevant to this dispute.	1				
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1 CANN oversees the technical coordination of the Internet's domain name system ("DNS") on behalf of the Internet community, ensuring the DNS's continued security, stability, and integrity. 1 As set forth in the version of ICANN's Bylaws relevant to this dispute ("Bylaws"), ICANN's mission "is to coordinate, at the overall level, the global Internet's system of unique identifiers, and in particular to ensure the stable and secure operation of the Internet's unique identifier systems," including the DNS. 1 Declaration of Sophia Bekele Eshete ("Bekele Decl."), Ex. 4 2 Lacks Personal Knowledge (Evid. Code § 702) 3 Best Evidence Rule (Evid. Code § 1520) 3 Best Evidence Rule (Evid. Code § 1520) 4 Internet's unique identifier system of unique identifier system of unique identifier systems," including the DNS. Declaration of Sophia Bekele Eshete ("Bekele Decl."), Ex. 4 (Bylaws, Art. I, § 1). ICANN's amended Bylaws became effective October 1, 2016, and DCA does not contend that the amended Bylaws are relevant to this dispute.	3	¶2: ICANN is a California not-for-	1. Lacks Foundation (Evid.		
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domain name system ("DNS") on behalf of the Internet community, ensuring the DNS's continued security, stability, and integrity. As set forth in the version of ICANN's Bylaws relevant to this dispute ("Bylaws"), ICANN's mission "is to coordinate, at the overall level, the global Internet's system of unique identifiers, and in particular to ensure the stable and secure operation of the Internet's unique identifier systems," including the DNS. Declaration of Sophia Bekele Eshete ("Bekele Decl."), Ex. 4 (Bylaws, Art. I, § 1). ICANN's amended Bylaws became effective October 1, 2016, and DCA does not contend that the amended Bylaws are relevant to this dispute.	5	ICANN oversees the technical	2. Lacks Personal		
behalf of the Internet community, ensuring the DNS's continued security, stability, and integrity. As set forth in the version of ICANN's Bylaws relevant to this dispute ("Bylaws"), ICANN's mission "is to coordinate, at the overall level, the global Internet's system of unique identifiers, and in particular to ensure the stable and secure operation of the Internet's unique identifier systems," including the DNS. Declaration of Sophia Bekele Eshete ("Bekele Decl."), Ex. 4 (Bylaws, Art. I, § 1). ICANN's amended Bylaws became effective October 1, 2016, and DCA does not contend that the amended Bylaws are relevant to this dispute.	6	coordination of the Internet's	Knowledge (Evid. Code §		
behalf of the Internet community, ensuring the DNS's continued security, stability, and integrity. As set forth in the version of ICANN's Bylaws relevant to this dispute ("Bylaws"), ICANN's mission "is to coordinate, at the overall level, the global Internet's system of unique identifiers, and in particular to ensure the stable and secure operation of the Internet's unique identifier systems," including the DNS. Declaration of Sophia Bekele Eshete ("Bekele Decl."), Ex. 4 (Bylaws, Art. I, § 1). ICANN's amended Bylaws became effective October 1, 2016, and DCA does not contend that the amended Bylaws are relevant to this dispute.	7	domain name system ("DNS") on	702)		
ensuring the DNS's continued security, stability, and integrity. As set forth in the version of ICANN's Bylaws relevant to this dispute ("Bylaws"), ICANN's mission "is to coordinate, at the overall level, the global Internet's system of unique identifiers, and in particular to ensure the stable and secure operation of the Internet's unique identifier systems," including the DNS. Declaration of Sophia Bekele Eshete ("Bekele Decl."), Ex. 4 (Bylaws, Art. I, § 1). ICANN's amended Bylaws became effective October 1, 2016, and DCA does not contend that the amended Bylaws are relevant to this dispute.	8	behalf of the Internet community,			
security, stability, and integrity. As set forth in the version of ICANN's Bylaws relevant to this dispute ("Bylaws"), ICANN's mission "is to coordinate, at the overall level, the global Internet's system of unique identifiers, and in particular to ensure the stable and secure operation of the Internet's unique identifier systems," including the DNS. Declaration of Sophia Bekele Eshete ("Bekele Decl."), Ex. 4 (Bylaws, Art. I, § 1). ICANN's amended Bylaws became effective October 1, 2016, and DCA does not contend that the amended Bylaws are relevant to this dispute.	9	ensuring the DNS's continued			
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system of unique identifiers, and in particular to ensure the stable and secure operation of the Internet's unique identifier systems," including the DNS. Declaration of Sophia Bekele Eshete ("Bekele Decl."), Ex. 4 (Bylaws, Art. I, § 1). ICANN's amended Bylaws became effective October 1, 2016, and DCA does not contend that the amended Bylaws are relevant to this dispute.	4	mission "is to coordinate, at the			
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and secure operation of the Internet's unique identifier systems," including the DNS. Declaration of Sophia Bekele Eshete ("Bekele Decl."), Ex. 4 (Bylaws, Art. I, § 1). ICANN's amended Bylaws became effective October 1, 2016, and DCA does not contend that the amended Bylaws are relevant to this dispute.	16	system of unique identifiers, and			
Internet's unique identifier systems," including the DNS. Declaration of Sophia Bekele Eshete ("Bekele Decl."), Ex. 4 (Bylaws, Art. I, § 1). ICANN's amended Bylaws became effective October 1, 2016, and DCA does not contend that the amended Bylaws are relevant to this dispute.	17	in particular to ensure the stable			
systems," including the DNS. Declaration of Sophia Bekele Eshete ("Bekele Decl."), Ex. 4 (Bylaws, Art. I, § 1). ICANN's amended Bylaws became effective October 1, 2016, and DCA does not contend that the amended Bylaws are relevant to this dispute.	18	and secure operation of the			
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Eshete ("Bekele Decl."), Ex. 4 (Bylaws, Art. I, § 1). ICANN's amended Bylaws became effective October 1, 2016, and DCA does not contend that the amended Bylaws are relevant to this dispute.	20	systems," including the DNS.			
3 (Bylaws, Art. I, § 1). ICANN's 4 amended Bylaws became effective 5 October 1, 2016, and DCA does 6 not contend that the amended 7 Bylaws are relevant to this dispute.	21	Declaration of Sophia Bekele			
amended Bylaws became effective Cottober 1, 2016, and DCA does not contend that the amended Bylaws are relevant to this dispute.	22	Eshete ("Bekele Decl."), Ex. 4			
October 1, 2016, and DCA does not contend that the amended Bylaws are relevant to this dispute.	23	(Bylaws, Art. I, § 1). ICANN's			
not contend that the amended Bylaws are relevant to this dispute.	24	amended Bylaws became effective			
7 Bylaws are relevant to this dispute.	25	October 1, 2016, and DCA does			
	26	not contend that the amended			
8	27	Bylaws are relevant to this dispute.			
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1	Atallah Declaration ¶	DCA Objection	Sustained	Overruled
2	¶3: The essential function of the	1. Lacks Foundation (Evid.		
3	DNS is to convert numeric IP	Code § 403)		
4	addresses into easily-remembered	2. Lacks Personal		
5	domain names that permit users to	Knowledge (Evid. Code §		
6 7 8 9 10 11 12 13 14 15 16	find specific websites, such as "USCOURTS.GOV" and "ICANN.ORG." The ".GOV" and ".ORG" in these addresses, just like the more well-known ".COM," are referred to as top-level domains ("TLDs"). ICANN is solely responsible for evaluating potential TLD operators and recommending that TLDs be added to the DNS. No government entity or regulatory	3. Improper OptionTestimony (Evid. Code §720)		
17	scheme governs ICANN's decisions			
18	in that respect.			
19	Atallah Declaration ¶	DCA Objection	Sustained	Overruled
20	¶4: Throughout its history,	1. Lacks Foundation (Evid.		
21	ICANN has sought to expand the	Code § 403)		
22	number of accessible TLDs in the	2. Lacks Personal		
23	DNS in order to promote	Knowledge (Evid. Code §		
24	consumer choice and competition.	702)		
25 26	The New gTLD Program ("Program"), launched in 2012,	3. Improper OpinionTestimony (Evid. Code		
27 28	constitutes ICANN's most ambitious expansion of the	§702)		

1	Internet's naming system. The	4. Speculation (Evid. Code §		
2	Program's goals include	702)		
3	enhancing competition and			
4	consumer choice, and enabling the			
5	benefits of innovation via the			
6	introduction of new generic TLDs			
7	("gTLDs"), including both new			
8	ASCII gTLDs and new non-			
9	ASCIII, internationalized domain			
10	name gTLDs. It resulted in the			
11	submission of 1,930 applications			
12	for new gTLDs, including DCA's			
13	and ZA Central Registry's			
14	("ZACR's") applications for the			
15	.AFRICA gTLD.			
15 16	.AFRICA gTLD. Atallah Declaration ¶	DCA Objection	Sustained	Overruled
		DCA Objection 1. Lacks Foundation (Evid.	Sustained	Overruled
16	Atallah Declaration ¶		Sustained	Overruled
16 17	Atallah Declaration ¶ ¶5: A number of "Advisory	1. Lacks Foundation (Evid.	Sustained	Overruled
16 17 18	Atallah Declaration ¶ ¶5: A number of "Advisory Committees" advise ICANN's	1. Lacks Foundation (Evid. Code § 403)	Sustained	Overruled
16 17 18 19	Atallah Declaration ¶ ¶5: A number of "Advisory Committees" advise ICANN's Board on various topics	Lacks Foundation (Evid. Code § 403) Lacks Personal	Sustained	Overruled
16 17 18 19 20	Atallah Declaration ¶ ¶5: A number of "Advisory Committees" advise ICANN's Board on various topics described in the ICANN Bylaws.	 Lacks Foundation (Evid. Code § 403) Lacks Personal Knowledge (Evid. Code § 	Sustained	Overruled
16 17 18 19 20 21	Atallah Declaration ¶ ¶5: A number of "Advisory Committees" advise ICANN's Board on various topics described in the ICANN Bylaws. The Governmental Advisory	 Lacks Foundation (Evid. Code § 403) Lacks Personal Knowledge (Evid. Code § 702) Speculation (Evid. Code § 	Sustained	Overruled
16 17 18 19 20 21 22	Atallah Declaration ¶ ¶5: A number of "Advisory Committees" advise ICANN's Board on various topics described in the ICANN Bylaws. The Governmental Advisory Committee ("GAC") has members	 Lacks Foundation (Evid. Code § 403) Lacks Personal Knowledge (Evid. Code § 702) Speculation (Evid. Code § 702) 	Sustained	Overruled
16 17 18 19 20 21 22 23	Atallah Declaration ¶ ¶5: A number of "Advisory Committees" advise ICANN's Board on various topics described in the ICANN Bylaws. The Governmental Advisory Committee ("GAC") has members composed of national governments	 Lacks Foundation (Evid. Code § 403) Lacks Personal Knowledge (Evid. Code § 702) Speculation (Evid. Code § 702) Best Evidence Rule (Evid. 	Sustained	Overruled
16 17 18 19 20 21 22 23 24	Atallah Declaration ¶ ¶5: A number of "Advisory Committees" advise ICANN's Board on various topics described in the ICANN Bylaws. The Governmental Advisory Committee ("GAC") has members composed of national governments and distinct economies as	 Lacks Foundation (Evid. Code § 403) Lacks Personal Knowledge (Evid. Code § 702) Speculation (Evid. Code § 702) 	Sustained	Overruled
16 17 18 19 20 21 22 23 24 25	Atallah Declaration ¶ ¶5: A number of "Advisory Committees" advise ICANN's Board on various topics described in the ICANN Bylaws. The Governmental Advisory Committee ("GAC") has members composed of national governments and distinct economies as recognized in international fora,	 Lacks Foundation (Evid. Code § 403) Lacks Personal Knowledge (Evid. Code § 702) Speculation (Evid. Code § 702) Best Evidence Rule (Evid. 	Sustained	Overruled
16 17 18 19 20 21 22 23 24 25 26	Atallah Declaration ¶ ¶5: A number of "Advisory Committees" advise ICANN's Board on various topics described in the ICANN Bylaws. The Governmental Advisory Committee ("GAC") has members composed of national governments and distinct economies as recognized in international fora, including the Unites States, and its	 Lacks Foundation (Evid. Code § 403) Lacks Personal Knowledge (Evid. Code § 702) Speculation (Evid. Code § 702) Best Evidence Rule (Evid. 	Sustained	Overruled

1	ICANN as they relate to concerns			
2	of governments, particularly			
3	matters where there may be an			
4	interaction between ICANN's			
5	policies and various laws and			
6	international agreements or where			
7	they may affect public policy			
8	issues." Bekele Decl., Ex. 4			
9	(Bylaws, Art. XI, § 2.1).			
10	Atallah Declaration ¶	DCA Objection	Sustained	Overruled
11	¶6: ICANN's Bylaws provide for	1. Best Evidence Rule (Evid.		
12	several accountability mechanisms	Code § 1520)		
13	to ensure that ICANN operates in	2. Lacks Foundation (Evid.		
14	accordance with its Articles of	Code § 403)		
15	Incorporation, Bylaws, policies	3. Lacks Personal		
16	and procedures. See Bekele Decl.,	Knowledge (Evid. Code §		
17	Ex. 4 (Bylaws, Arts. IV-V). For	702)		
18	example, an aggrieved applicant	4. Speculation (Evid. Code §		
19	can file a "request for	702)		
20	reconsideration," which is a	5. Improper Opinion		
21	mechanism that asks the ICANN	Testimony (Evid. Code		
22	Board to reevaluate certain Board	• ,		
23	or staff actions or inactions that	§702)		
24	the applicant believes have harmed			
25	it. Id. (Bylaws, Art. IV, § 2). In			
26	addition, an aggrieved applicant			
27	can file a "request for independent			
28	review," a unique process set forth			
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1	in ICANN's Bylaws that asks			
2	independent panelists to evaluate			
3	whether an action of ICANN's			
4	Board was consistent with			
5	ICANN's Articles of			
6	Incorporation and Bylaws. <i>Id</i> .			
7	(Bylaws, Art. IV, § 3).			
8	Atallah Declaration ¶	DCA Objection	Sustained	Overruled
9	¶7: The Bylaws provide for the	1. Best Evidence Rule (Evid.		
10	IRP panel to issue a written	Code § 1520)		
11	determination "declar[ing]	2. Lacks Foundation (Evid.		
12	whether an action or inaction of	Code § 403)		
13	the Board was inconsistent with	3. Lacks Personal		
14	the Articles of Incorporation or	Knowledge (Evid. Code §		
15	Bylaws" and "recommend[ing]	702)		
16	that the Board stay any action or	4. Speculation (Evid. Code §		
17	decision, or that the Board take	702)		
18	any interim action, until such time	5. Improper Opinion		
19	as the Board reviews and acts			
20	upon the opinion of the IRP."	Testimony (Evid. Code		
21	Bekele Decl., Ex. 4 (Bylaws, Art.	§702)		
22	IV, § 3.11). The ICANN Board			
23	then considers and acts on the			
24	determination. <i>Id.</i> (Bylaws, Art.			
25	IV, § 3.21).			
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1	Atallah Declaration ¶	DCA Objection	Sustained	Overruled
2	¶8: I am informed and believe that	1. Improper Opinion		
3	prior to the opening of the New	Testimony (Evid. Code		
4	gTLD Program application period,	§702)		
5	only one IRP had resulted in a	2. Lacks Foundation (Evid.		
6	written determination <i>ICM</i>	Code § 403)		
7	Registry, LLC v. ICANN. The ICM	3. Lacks Personal		
8	Panel declared that the	Knowledge (Evid. Code §		
9	determinations of IRP panels were	702)		
10	not binding on ICANN's Board.	4. Lack of Completeness		
11	Attached hereto as Exhibit E is a	(Evid. Code § 356)		
12	true and correct copy of an excerpt	5. Best Evidence Rule (Evid.		
13	of the Final Declaration of the	`		
14	ICM Panel.	Code § 1520)		
15	Atallah Declaration ¶	DCA Objection	Sustained	Overruled
16	¶9: To my knowledge, ICANN		Sustanicu	Overraicu
17	has never represented that IRPs are	1. Improper Opinion		
18	binding. Instead, ICANN has	Testimony (Evid. Code		
19	consistently argued that IRP	§702)		
20	declarations are not binding.	2. Lacks Foundation (Evid.		
21	declarations are not omiding.	Code § 403)		
22		3. Hearsay (Evid. Code §		
23		1200, et seq.)		
24	Atallah Declaration ¶	DCA Objection	Sustained	Overruled
25	¶10: In the case of the DCA IRP,	1. Lacks Foundation (Evid.		
26	the DCA Panel declared that its	Code § 403)		
27	decision would be binding on	2. Best Evidence Rule (Evid.		
28	ICANN's Board. But the question	Code § 1520)		

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1	of whether the Panel's declaration	3. Improper Opinion		
2	was or was not legally binding	Testimony (Evid. Code		
3	became a moot issue once	§702)		
4	ICANN's Board elected to adopt	4. Hearsay (Evid. Code §		
5	all of the DCA Panel's	1200, et seq.)		
6	recommendations, contrary to the	, 1,		
7	representations in Plaintiff's			
8	Motion for Preliminary Injunction.			
9	Atallah Declaration ¶	DCA Objection	Sustained	Overruled
10	¶11: Specifically, on July 9, 2015,	1. Best Evidence Rule (Evid.		
11	the DCA Panel issued its Final	Code § 1520)		
12	Declaration. Bekele Decl., Ex. 1.	2. Lacks Personal		
13	The DCA Panel determined that	Knowledge (Evid. Code §		
14	ICANN's Board had violated	720)		
15	ICANN's Articles of	,		
16	Incorporation and Bylaws by			
17	accepting the GAC's consensus			
18	advice that Plaintiff's application			
19	for .AFRICA ("Application")			
20	should not proceed. The DCA			
21	Panel therefore recommended that			
22	"ICANN continue to refrain from			
23	delegating the .AFRICA gTLD			
24	and permit [Plaintiff]'s application			
25	to proceed through the remainder			
26	of the new gTLD application			
27	process." Bekele Decl., Ex. 1 ¶			
28	149.			
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1	Atallah Declaration ¶	DCA Objection	Sustained	Overruled
2	¶12: ICANN's Board promptly	1. Improper Opinion		
3	considered and adopted each of the	Testimony (Evid. Code		
4	DCA Panel's recommendations.	§702)		
5	On July 16, 2015, the Board	2. Lacks Foundation (Evid.		
6	resolved to "continue to refrain	Code § 403)		
7	from delegating the .AFRICA	3. Best Evidence Rule (Evid.		
8	gTLD," "permit [Plaintiff's]	Code § 1520)		
9	application to proceed through the	,		
10	remainder of the new gTLD			
11	application process," and			
12	"reimburse DCA for the costs of			
13	the IRP." Attached hereto as			
14	Exhibit F is a true and correct			
15	copy of ICANN Board			
16	Resolutions 2015.07.16.01-05,			
17	adopting the DCA Panel's			
18	recommendations.			
19	Atallah Declaration ¶	DCA Objection	Sustained	Overruled
20	¶13: In the event ICANN is	1. Improper Opinion		
21	permitted to delegate the	Testimony (Evid. Code		
22	.AFRICA gTLD to ZACR, a	§702)		
23	transfer or assignment of the	2. Lacks Foundation (Evid.		
24	gTLD in the future would still be	Code § 403)		
25	possible, feasible and consistent	3. Speculation (Evid. Code §		
26	with ICANN's previous conduct.	702)		
27	In fact, over forty gTLDs have had	,		
28	their registry contracts transferred			

1	from one registry operator to a	4. Lacks Personal		
2	different registry operator, i.e.,	Knowledge (Evid. Code §		
3	transferred for operation by a	702)		
4	different registry operator than the			
5	operator when the registry contract			
6	was initially executed. These			
7	transfers have occurred for a			
8	number of reasons, and transfers			
9	are not limited to situations where			
10	a registry's contract with ICANN			
11	was expiring.			
12	Atallah Declaration ¶	DCA Objection	Sustained	Overruled
13	¶14: Nor is there any truth to	1. Improper Opinion		
14	DCA's argument in its Motion (at	Testimony (Evid. Code		
15	p. 12) that "the U.S. government's	§702)		
16	ties with ICANN ceased" and	2. Lacks Foundation (Evid.		
17	therefore "the current procedure	Code § 403)		
18	for gTLD redelegation is	3. Speculation (Evid. Code §		
19	uncertain." In fact, nothing about	702)		
20	the recent transition of the Internet	4. Lacks Personal		
21	Assigned Numbers Authority	Knowledge (Evid. Code §		
22	("IANA") functions from the	702)		
23	United States government to	,		
24	ICANN has any effect whatsoever	5. Best Evidence Rule (Evid.		
25	upon the fact that it is possible to	Code §1520)		
26	transfer the rights to operate a new			
27	gTLD from one registry operator			
28	to another, post-delegation.			
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2	Dated: December 15, 2016	BROWN NERI SMITH & KHAN LLP
3		La Qe-
4		By:
5		Sara C. Colón
6		Attorneys for Plaintiff DOTCONNECTAFRICA TRUST
7		Do Toot (Letti Men Theor
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