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11 DOTCONNECTAFRICA TRUST

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

13 **COUNTY OF LOS ANGELES - CENTRAL**

14 DOTCONNECTAFRICA TRUST, a Mauritius
15 Charitable Trust;

16 Plaintiff,

17 v.

18 INTERNET CORPORATION FOR
19 ASSIGNED NAMES AND NUMBERS, a
20 California corporation;

21 Defendants.

Case No. BC607494

Assigned for all purposes to the Honorable
Howard L. Halm

**RESPONSE TO EVIDENTIARY
OBJECTIONS TO DECLARATION OF
SOPHIA BEKELE**

DATE: December 22, 2016

TIME: 8:30 a.m.

DEPT: 53

1 Plaintiff DotConnectAfrica Trust (“DCA”) hereby responds to Defendant Internet
 2 Corporation for Assigned Names and Numbers’ (“ICANN”) evidentiary objections to the
 3 Declaration of Sophia Bekele Eshete (“Bekele Declaration”) filed in support of DCA’s Motion for
 4 Preliminary Injunction.

Bekele Declaration ¶	ICANN Objection	Response	Ruling
<p>5 ¶6: “If .Africa is delegated to 6 ZACR before this case is 7 resolved, DCA’s mission 8 will be seriously frustrated 9 and funders will likely pull 10 their support due to the 11 uncertainty involved in the 12 re-delegation process.”</p>	<p>1. Speculation (Evid. Code 702.) 2. Lacks Foundation (Evid. Code §403) 3. Lacks Personal Knowledge (Evid. Code § 702).</p> <p>Ms. Bekele fails to lay a foundation as to the source of her knowledge, or demonstrate personal knowledge, of the statement that funders will “likely” pull their support. Further, the testimony is speculative and should be stricken.</p>	<p>Ms. Bekele’s testimony is based upon her personal knowledge as stated in the declaration. Ms. Bekele is the CEO of Plaintiff DCA and deals directly with its funders.</p>	<p>Overruled _____ Sustained _____</p>
<p>17 ¶7: “If .Africa is delegated 18 to ZACR before this case is 19 resolved DCA will likely be 20 forced to stop 21 operating due to a lack of 22 funding.”</p>	<p>1. Lacks Foundation (Evid. Code § 403). 2. Lacks Personal Knowledge (Evid. Code §702). 3. Speculation (Evid. Code § 702).</p> <p>Ms. Bekele fails to lay a foundation as to the source of her knowledge, or demonstrate personal knowledge, of the state that if .Africa is delegated to ZACR before this case is resolve DCA will likely be forced to stop operating to due lack of funding. Further, the testimony is speculative and should be stricken.</p>	<p>Ms. Bekele’s testimony is based on her personal knowledge as stated in the declaration. Ms. Bekele is the CEO of Plaintiff DCA and deals directly with its founders.</p>	<p>Overruled _____ Sustained _____</p>

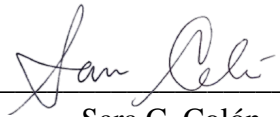
Bekele Declaration ¶	ICANN Objection	Response	Ruling
<p>¶ 8: “Once the gTLD is awarded and the party controlling it begins selling or offering its use to users of the Internet including businesses, organizations, persons and governments, it would be difficult if not impossible to unwind that control and provide it to another party.”</p>	<p>1. Lacks Foundation (Evid. Code § 403). 2. Lacks Personal Knowledge (Evid. Code § 702). 3. Improper Opinion Testimony (Evid. Code §§ 800-803). Ms. Bekele fails to lay a foundation as to the source of her knowledge, or demonstrate personal knowledge, of the statement that it would be difficult to unwind the control of a gTLD and provide it to another party. Further, because it is not rationally based on her perception, this statement amounts to inadmissible opinion testimony.</p>	<p>Ms. Bekele’s testimony is based on her personal knowledge as stated in the declaration.</p>	<p>Overruled _____ Sustained _____</p>
Bekele Declaration ¶	ICANN Objection	Response	Ruling
<p>¶ 9: “Based on my understanding of ICANN’s rules and the requirements of a registry, if .Africa were re-delegated from ZACR to DCA, third party registrar contracts would have to be unwound. Third parties with whom ZACR contracted to provide domain names under the .Africa gTLD would have to transition technically and contractually to DCA – a process that would be costly and burdensome for all such that redelegation is simply not viable here. Further, ZACR plans to charge more to registrars than DCA, which will create more complications in the redelegation process.”</p>	<p>1. Lacks Foundation (Evid. Code § 403). 2. Lacks Personal Knowledge (Evid. Code § 702). 3. Speculation (Evid. Cod. § 702) 4. Improper Opinion Testimony (Evid. Code §§ 800-803). 5. Hearsay (Evid. Code § 1200, et seq.).</p> <p>Ms. Bekele fails to lay a foundation as to the source of her knowledge, or demonstrate personal knowledge, of the statement that unwinding third party contracts would be costly and burdensome and re-delegation not viable. Further, because it is not rationally based on her perception, this statement amounts to inadmissible opinion testimony. Similarly, Ms. Bekele fails to lay a foundation as to the source of her knowledge or demonstrate personal knowledge</p>	<p>Ms. Bekele’s testimony is based on her personal knowledge as stated in the declaration.</p> <p>Ms. Bekele’s statements are based on her personal knowledge and perception.</p> <p>There are no out of court statements made.</p>	<p>Overruled _____ Sustained _____</p>

	as to what amount ZACR plans to charge registrars, or the claim that that purported “fact” would “create more complications in re-delegation.” Those statements are speculative and/or an inadmissible opinion.		
Bekele Declaration ¶	ICANN Objection	Response	Ruling
<p>¶ 26: “Instead of allowing DCA’s application to proceed through the remainder of the application process after the IRP, ICANN restarted DCA’s application and re-reviewed its endorsements.”to become a reality, the AUC determined that a fully vetted and transparent process was needed for the governments of Africa to provide proper support to an applicant seeking to serve as a registry for a gTLD that would represent the entire continent.”</p>	<p>1. Lacks Foundation (Evid. Code § 403). 2. Lacks Personal Knowledge (Evid. Code § 702). 3. Improper Opinion Testimony (Evid. Code §§ 800-803).</p> <p>Ms. Bekele fails to lay a foundation as to the source of her knowledge, or demonstrate personal knowledge, of the statement that ICANN restarted DCA’s application and rereviewed its endorsements. Further, because it is not rationally based on her perception, this statement amounts to inadmissible opinion testimony.</p> <p>Moreover, the statement contradicts Ms. Bekele’s sworn deposition testimony, whereby she admitted the IRP Declaration did not address—let alone decide—whether DCA had satisfied the 60% governmental support requirement, and that the IRP did not declare that DCA could skip the geographic support review. LeVee Decl., Ex. H (Bekele Dep. 200:7-201:19, 7-203:4-7, 206:14-207:2, 207:16-208:11).</p>	<p>Ms. Bekele’s testimony is based on her personal knowledge as stated in the declaration.</p> <p>The statement does not contradict Ms. Bekele’s sworn deposition testimony because the cited deposition testimony merely states that the the IRP did not make any express ruling on the endorsements. The deposition testimony does not state that DCA’s endorsements were insufficient and therefore required further or additional review by the Geographic Names Panel.</p>	<p>Overruled</p> <p>_____</p> <p>Sustained</p> <p>_____</p>

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Dated: December 15, 2016

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By: 
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DOTCONNECTAFRICA TRUST