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 11 **ZA Central Registry, NPC**

12 **UNITED STATES DISTRICT COURT**  
 13 **CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION**

14 DOTCONNECTAFRICA TRUST, a  
 15 Mauritius Charitable Trust,  
 16  
 17 Plaintiff,  
 18 v.

19 INTERNET CORPORATION FOR  
 20 ASSIGNED NAMES AND  
 21 NUMBERS; a California corporation;  
 22 ZA Central Registry, a South African  
 23 non-profit company; DOES 1 through  
 24 50, inclusive,  
 25 Defendants.

CASE NO. 2:16-cv-00862 RGK (JCx)

*Assigned for all purposes to the  
 Honorable R. Gary Klausner*

**ZACR’S NOTICE OF MOTION  
 AND MOTION TO RECONSIDER  
 AND VACATE PRELIMINARY  
 INJUNCTION RULING**

[Memorandum of Points and  
 Authorities; Declaration of David W.  
 Kesselman; Declaration of Mokgabudi  
 Lucky Masilela; and [Proposed] Order  
 Filed Concurrently Herewith]

Date: June 6, 2016  
 Time: 9:00 a.m.  
 Location: Courtroom 850

1 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2 **PLEASE TAKE NOTICE** that on June 6, 2016, at 9:00 a.m., or as soon  
3 thereafter as the matter may be heard in the courtroom of the Honorable R. Gary  
4 Klausner, Courtroom 850, United States District Court for the Central District of  
5 California, 255 East Temple Street, Los Angeles, California, Defendant ZA  
6 Central Registry (“ZACR”) will and hereby does move the Court to reconsider  
7 and vacate the preliminary injunction order issued on April 12, 2016 (the  
8 “Order”).

9 In the Order, the Court ruled that defendant Internet Corporation for  
10 Assigned Names and Numbers (“ICANN”) is precluded from delegating the top  
11 level domain (“gTLD”) .Africa to defendant ZACR. ZACR, which had not yet  
12 appeared in the litigation when the parties were briefing these issues, makes this  
13 motion on the following grounds:

14 First, the Order is predicated upon a key factual error that mandates  
15 reconsideration. The Court read DCA’s papers to suggest that it had already  
16 passed the geographic names evaluation process and therefore, after the IRP  
17 decision, the Court found “serious questions in DCA’s favor as to whether DCA’s  
18 application should have proceeded to the delegation stage following the IRP  
19 decision.” (Order at 6.) But this was a factual error. The record is undisputed  
20 that DCA’s application had not passed the geographic names evaluation process.  
21 And it could not because DCA did not have the requisite support of 60% or more  
22 of the African Union governments. Further, DCA’s application had been the  
23 subject of 17 “Early Warning” submissions by African Union governments.  
24 Correcting for this factual error, the record is clear that DCA has no likelihood of  
25 success in this litigation.

26 Second, the Order presumed irreparable harm based upon an inaccurate  
27 statement in DCA’s moving papers. The Court, relying upon DCA’s incorrect  
28

1 statement, stated that the gTLD “.Africa can be delegated only once.” But this is  
2 not true. There is no technological barrier to redelegation of a gTLD. Indeed,  
3 ICANN prepared a manual in 2013 specifically addressing the requirements for a  
4 redelegation of a gTLD. Accordingly, DCA cannot demonstrate irreparable harm  
5 because .Africa could be redelegated at a future date.

6 Third, the Court should reconsider and vacate the preliminary injunction  
7 because the earlier analysis of the balance of equities did not take into account the  
8 harm to ZACR. The delay in the delegation of the gTLD .Africa continues to  
9 cause significant economic harm to ZACR, and continues to harm the African  
10 people. On a proper record, correcting for the errors noted above and considering  
11 the harm to ZACR and the African people, the equities clearly balance against an  
12 injunction.

13 Finally, reconsideration should be allowed because, at a minimum, DCA  
14 should be forced to post a bond. Consideration of a bond is mandatory under the  
15 Federal Rules and is especially important here given the ongoing impact of the  
16 injunction on ZACR and the people of Africa.

17 Pursuant to Local Rule 7-3, counsel for ZACR met and conferred with  
18 counsel for DCA to discuss the grounds for this Motion. The parties were unable  
19 to reach agreement, thereby necessitating the filing of this Motion.

20 This Motion is based upon the Notice of Motion and Motion, the  
21 accompanying Memorandum of Points and Authorities, the Declaration of  
22 Mokgabudi Lucky Masilela, the Declaration of David W. Kesselman, the  
23 pleadings and documents on file in this action, and any further evidence and  
24 argument that may be presented at the time of the hearing.

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DATED: May 6, 2016

Respectfully submitted,  
KESSELMAN BRANTLY STOCKINGER LLP

By:           /s/ David W. Kesselman            
David W. Kesselman  
Amy T. Brantly

Attorneys for Defendant ZA Central  
Registry, NPC