

**INTERNATIONAL CENTRE FOR DISPUTE RESOLUTION (ICDR)  
CASE # 50 117 T 1083 13**

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**In the matter of an Independent Review Process (IRP) pursuant to the Internet Corporation for Assigned Names and Number's (ICANN's) Bylaws, the *International Dispute Resolution Procedures* of the ICDR, and the *Supplementary Procedures for ICANN Independent Review Process***

**Between: DotConnectAfrica Trust;**  
("Claimant")

Represented by Mr. Arif H. Ali, Ms. Marguerite Walter and Ms. Erica Franzetti of Weil, Gotshal, Manges, LLP located at Contact Information Redacted

**And**

**Internet Corporation for Assigned Names and Numbers (ICANN);**  
("Respondent")

Represented by Mr. Jeffrey A. LeVee of Jones Day, LLP located at Contact Information Redacted

Claimant and the Respondent are hereafter jointly referred to as the "Parties".

**PROCEDURAL ORDER No. 5**

1. This Procedural Order No. 5 is being rendered following the Panel's Declaration on ICANN's Request for Revisiting of the 14 August 2014 Declaration on the IRP Procedure Following the Replacement of Panel Member and the Parties' communications of 26 February, 5 March, and 12 March 2015.
2. In its letter of 26 February 2015, among other things, ICANN strongly urges the Panel to declare that the hearing in May will be limited to argument of counsel. ICANN also writes:

Parties in alternative dispute resolution proceedings where examination of witnesses is allowed often waive cross-examination. In such cases, the panel usually will not insist on hearing witnesses, and rather will assess the

weight of the evidence without assuming the truth of the contents of the witness statements.

3. In its 5 March 2015 response to ICANN's letter of February 26, DCA Trust writes:

DCA does not intend to seek the Panel's leave to cross-examine ICANN's witnesses. DCA is prepared to stipulate to no live witness testimony during the hearing on the merits in this IRP if the Panel accepts the testimony as presented and gives it all due weight and consideration.

DCA understands ICANN to be agreeable to this given its request and its confidence that permitting witnesses to testify would not result in any finding adverse to ICANN.

[...]

Although DCA will stipulate to no live testimony during the hearing on the merits in this IRP, DCA proposes that each party's witnesses be present at, or available by telephone during, the hearing to answer any questions the Panel may have.

4. After reading the Parties' written submissions above, considering their respective positions and deliberation, the Panel would like to convene a telephone conference call with the Parties as soon as possible to, among other things, canvass the following:
- 1) Presence or absence at the hearing of witnesses for the Panel to ask questions, if any?
  - 2) The form of hearing now appropriate in this IRP?
  - 3) Any other issues relating to the hearing of this IRP.

5. The Panel proposes the following times for a conference call with the Parties:

26 March 2015 at 4 p.m. Montreal time, 1 p.m. LA time and 9 p.m. Paris time;

31 March 2015 at 1 p.m. Montreal time, 11 a.m. LA time and 6 p.m. Paris time;

If the Parties are not available during the above dates and times, the Panel will endeavor to find other possibilities.

This Procedural Order No. 5 has three (3) pages and it may be amended or supplemented pursuant to such further directions or Procedural Orders as the Panel may issue.

Place of IRP: Los Angeles, California.

Dated: 24 March 2015

For the Panel



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Babak Barin, President