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DOTCONNECTAFRICA TRUST

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES - CENTRAL

DOTCONNECTAFRICA TRUST, a Mauritius Charitable Trust;
 	
        Plaintiff,
 	
        v.
 	
INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS, a California corporation;
 	
        Defendants.
	Case No. BC607494
	
	Assigned for all purposes to the Honorable Howard L. Halm
	
	EVIDENTIARY OBJECTIONS TO DECLARATION OF KEVIN ESPINOLA IN SUPPORT OF ICANN'S OPPOSITION TO PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION
	
	DATE: December 22, 2016
	TIME: 8:30 a.m.
	DEPT: 53

Objections to Declaration of Kevin Espinola

Espinola Declaration ¶	DCA Objection	Sustained	Overruled
¶2: ICANN and its community developed the New gTLD Applicant Guidebook ("Guidebook") as part of a years-long, bottom-up multistakeholder process during which numerous versions were published by ICANN for public comment and revised, in part based on comments received. In total, six versions of the Guidebook were published for public comment.	1. Lacks Foundation (Evid. Code § 403) 2. Lacks Personal Knowledge (Evid. Code § 702) 3. Best Evidence Rule (Evid. Code § 1520)		
Espinola Declaration ¶	**DCA Objection**	**Sustained**	**Overruled**
¶3: In the April 15, 2011 version of the Guidebook ("April 2011 Guidebook"), language was added to Section 6 of Module 6 of the Guidebook ("Covenant Not to Sue") making explicit that: "[an] applicant may utilize any accountability mechanism set forth in ICANN's Bylaws for [the] purposes of challenging any final decision made by ICANN with respect to the application." Attached hereto as Exhibit K is a true and correct copy of Module 6 of the April 2011 version of	1. Lacks Foundation (Evid. Code § 403) 2. Lacks Personal Knowledge (Evid. Code § 702) 3. Improper Opinion Testimony (Evid. Code §§800-803) 4. Best Evidence Rule (Evid. Code § 1520)		

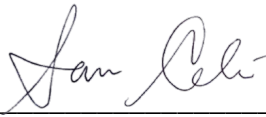|			
the Guidebook, which was published with a redline, showing changes made from the prior version of the Guidebook.			
Espinola Declaration ¶	**DCA Objection**	**Sustained**	**Overruled**
¶4: As ICANN has stated publicly, ICANN is a not-for-profit public benefit corporation and anticipated that, absent a broad waiver and limitation of liability in the Guidebook's terms and conditions, the over 1,900 applicants could initiate frivolous and costly legal actions in an attempt to challenge legitimate ICANN decisions, which would imperil the successful implementation of the New gTLD Program. Accordingly, ICANN carefully considered how to protect the New gTLD Program from such challenges, and the Covenant Not to Sue in the Guidebook was deemed appropriate in light of these considerations.	1. Lacks Foundation (Evid. Code § 403) 2. Lacks Personal Knowledge (Evid. Code § 702) 3. Speculation (Evid. Code § 702) 4. Hearsay (Evid. Code § 1200, et seq.) 5. Improper Opinion Testimony (Evid. Code §702)		

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2   Dated: December 15, 2016   **BROWN NERI SMITH & KHAN LLP**

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4   By: _____

5   Sara C. Colón

6   *Attorneys for Plaintiff*
                                         DOTCONNECTAFRICA TRUST
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