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

CASE NO. 2:16-cv-00862 RGK (JCx)  
*Assigned for all purposes to the  
 Honorable R. Gary Klausner*

**ZA CENTRAL REGISTRY, NPC’S  
 CONSOLIDATED EVIDENTIARY  
 OBJECTIONS TO  
 DECLARATIONS OF SOPHIA  
 BEKELE ESHETE**

[Filed concurrently with Reply ISO  
 Motion to Reconsider and Vacate  
 Preliminary Injunction; Supplemental  
 Declaration of Mokgabudi Lucky  
 Masilela ISO Motion; Consolidated  
 Evidentiary Objections to Declaration  
 of Sarah Colón; Response to Plaintiff’s  
 Evidentiary Objections to Declaration  
 of Mokgabudi Lucky Masilela; and  
 Declaration of Akram Atallah ISO of  
 Motion]

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

1 Defendant ZA Central Registry, NPC (“ZACR”) respectfully submits the  
 2 following consolidated evidentiary objections to the Declaration of Sophia Bekele  
 3 (Dkt. No. 17) (“Bekele Declaration”), Declaration of Sophia Bekele (Dkt. No. 45)  
 4 (“Bekele Supp. Declaration”), and the Declaration of Sophia Bekele (Dkt. No. 93)  
 5 (“Bekele II Declaration), relied upon by Plaintiff Dot Connect Africa Trust  
 6 (“DCA”) in support of its opposition to ZACR’s Motion to Reconsider and  
 7 Vacate.<sup>1</sup>

<b>Bekele Declaration (#17)</b>	<b>ZACR’s Objection</b>	<b>Court’s Ruling</b>
<p>10 ¶ 2 “I believe that DCA                  11 submitted a well-                  12 qualified and compelling                  13 application for .Africa,                  14 which was undermined at                  15 each stage of the process                  16 by Defendant the Internet                  17 Corporation for Assigned                  18 Names and Numbers’                  19 (‘ICANN’) through                  20 breaches of its Bylaws,                  21 Articles of Incorporation,                  22 and the New gLTD</p>	<p>Lacks personal                  knowledge, lacks                  foundation, speculative,                  conclusory, assumes                  facts not in evidence.                  [Fed. R. Evid. 602.]</p>	

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 24 <sup>1</sup> ZACR limits its objections to the Bekele Declaration and the Bekele Supp.  
 25 Declaration, which were filed in connection with Plaintiff’s motion for  
 26 preliminary injunction, to the portions on which Plaintiff relies on in support of its  
 27 Opposition to ZACR’s Motion to Reconsider and Vacate Preliminary Injunction  
 28 Ruling. ZACR does not concede that portions of the Bekele Declaration or the  
 Bekele Supp. Declaration that Plaintiff does not rely on in connection with the  
 instant motion are admissible or proper, and ZACR reserves all rights.

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<b>Bekele Declaration (#17)</b>	<b>ZACR’s Objection</b>	<b>Court’s Ruling</b>
<p>Guidebook due to its improper cooperation with the African Union Commission (‘AUC’). The AUC is the backer of the competing application for the .Africa gLTD submitted by Uniform S.A., now known as Defendant ZA Central Registry (‘ZACR’).”</p>		
<p>¶ 3 “Only one entity can serve as the operator of .Africa and the rights to operate .Africa can only be delegated by ICANN. 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, or governments, it would be difficult if not</p>	<p>Misstates facts. DCA concedes that the .Africa gLTD can be re-delegated. [Opp’n at 13:21-23.] In fact, “[o]ver forth gTLDs have had their registry contracts transferred from one registry operator to a different registry operator. ...” [Declaration of Akram Atallah at ¶ 4. See also Exs. B &amp; C to the</p>	

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<b>Bekele Declaration (#17)</b>	<b>ZACR’s Objection</b>	<b>Court’s Ruling</b>
<p>impossible to unwind that control and provide it to another party.”</p>	<p>Supplemental Declaration of Mokgabudi Lucky Masilela.]</p> <p>Lacks personal knowledge, lacks foundation, speculative, conclusory, and assumes facts not in evidence. [Fed. R. Evid. 602.]</p>	
<p>¶ 14 &amp; Ex. 6 “Attached hereto as Exhibit 6 is a true and correct copy of the August 27, 2009 DCA endorsement letter from the AUC to me.”</p>	<p>Relevance. [Fed. R. Evid. 403.] The purported “endorsement letter” was issued prior to the publication of the Guidebook and does not comply with the Guidebooks’ requirements for endorsements. [See Bekele Declaration, Ex. 3, Guidebook Module 2, p.0172-0173, section 2.2.1.4.3; <i>id.</i> at p.0195-0196, “Sample Letter of</p>	

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<b>Bekele Declaration (#17)</b>	<b>ZACR’s Objection</b>	<b>Court’s Ruling</b>
	<p>Government Support.”] Further, the “endorsement letter” was repudiated by the AUC before the ICANN opened the application process for the .Africa gLTD. [Bekele Decl. Ex. 7; Declaration of Mokgabudi Lucky Masilela (“Masilela Decl.”) Ex. C.]</p>	
<p>¶ 16 &amp; Ex. 8 “Attached hereto as Exhibit 8 is a true and correct copy of the August 27, 2009 DCA endorsement letter from the United Nations Economic Commission on Africa (‘UNECA’) to me.”</p>	<p>Relevance. [Fed. R. Evid. 403.] The purported “endorsement letter” was issued prior to the publication of the Guidebook and does not comply with the Guidebooks’ requirements for endorsements. [See Bekele Declaration, Ex. 3, Guidebook Module 2, p.0172-0173, section 2.2.1.4.3; <i>id.</i> at p.0195-</p>	

<b>Bekele Declaration (#17)</b>	<b>ZACR’s Objection</b>	<b>Court’s Ruling</b>
	0196, “Sample Letter of Government Support.”] Further, the “endorsement letter” was repudiated by UNECA. [Bekele Decl. Ex. 10.]	
¶ 19 & Ex. 11 “Attached hereto as Exhibit 11 is a true and correct copy of the December 5, 2010 DCA endorsement letter from the Internationalized Domain Resolution Union (‘IRDU’) to me.”	Relevance. [Fed. R. Evid. 403.] The purported “endorsement letter” was issued prior to the publication of the Guidebook and does not comply with the Guidebooks’ requirements for endorsements. [See Bekele Declaration, Ex. 3, Guidebook Module 2, p.0172-0173, section 2.2.1.4.3; <i>id.</i> at p.0195- 0196, “Sample Letter of Government Support.”]	
¶ 20 & Ex 12 “Attached hereto as Exhibit 12 is a true and correct copy of the	Relevance. [Fed. R. Evid. 403.] The purported “endorsement letter” was issued prior	

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<b>Bekele Declaration (#17)</b>	<b>ZACR’s Objection</b>	<b>Court’s Ruling</b>
<p>November 17, 2010 DCA endorsement letter from the Corporate Council on Africa to me.”</p>	<p>to the publication of the Guidebook and does not comply with the Guidebooks’ requirements for endorsements. [See Bekele Declaration, Ex. 3, Guidebook Module 2, p.0172-0173, section 2.2.1.4.3; <i>id.</i> at p.0195-0196, “Sample Letter of Government Support.”]</p>	
<p>¶21, Ex 13 “Attached hereto as Exhibit 13 is a true and correct copy of the August 7, 2012 DCA endorsement letter from Kenya to me.”</p>	<p>Relevance. [Fed. R. Evid. 403.] The purported “endorsement letter” was issued prior to the publication of the Guidebook and does not comply with the Guidebooks’ requirements for endorsements. [See Bekele Declaration, Ex. 3, Guidebook Module 2, p.0172-0173, section 2.2.1.4.3; <i>id.</i> at p.0195-</p>	

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<b>Bekele Declaration (#17)</b>	<b>ZACR’s Objection</b>	<b>Court’s Ruling</b>
	0196, “Sample Letter of Government Support.”]	
¶ 23 “Instead of allowing DCA’s application to proceed through the remainder of the delegation process after the IRP, ICANN restarted DCA’s application and re-reviewed its endorsements.”	Lacks personal knowledge, lacks foundation, speculative, conclusory, and assumes facts not in evidence. [Fed. R. Evid. 602.]  Misstates Facts. In 2013, DCA’s application was removed from processing before it passed the Geographic Names Panel review. [Declaration of Christine Willett (Dkt. #39) at ¶ 9.] After ICANN adopted the IRP recommendation in 2015, DCA’s application was returned to exactly where it had been in the process – to the Geographic Names Panel for review. [Id. at ¶ 10.]	



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<b>Bekele Declaration (#17)</b>	<b>ZACR’s Objection</b>	<b>Court’s Ruling</b>
<p>¶ 34 “After reviewing the ZACR endorsements produced to DCA, I noted that only five specifically reference ZACR by name and that many of the letters were actually endorsing AUC’s own initiative to make .Africa a ‘reserved’ gTLD.”</p>	<p>Hearsay [Fed. R. Evid. 801 &amp; 802.] Lacks personal knowledge, lacks foundation, and assumes facts not in evidence. [Fed. R. Evid. 602.] The documents themselves are the best evidence of their content. [Fed. R. Evid. 1002.] Relevance. [Fed R. Evid. 403.]</p>	
<p>¶36 &amp; Ex 23 “Attached hereto as Exhibit 23 is a true and correct copy, as produced to DCA from ICANN, of the October 15, 2012 email from ICC to ICANN with attachment.”</p>	<p>Hearsay. [Federal R. Evid. 801 &amp; 802.] Relevance. [Federal R. Evid. 403.]</p>	

<b>Bekele Supp Decl (#45)</b>	<b>ZACR’s Objection</b>	<b>Court’s Ruling</b>
<p>¶ 2 &amp; Ex. 1 “Attached hereto as Exhibit 1 is a true and</p>	<p>Incomplete document. The documents themselves are the best</p>	

<p>1 correct copy of an 2 excerpt of DCA’s .Africa 3 gTLD application.”</p>	<p>evidence of their content. [Fed. R. Evid. 1002]. Hearsay. [Fed. R. Evid. 801 &amp; 802.] Lacks personal knowledge and lacks foundation. [Fed. R. Evid. 602.] Relevance. [Fed R. Evid. 403.]</p>	
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<b>Bekele II Decl. (#91)</b>	<b>ZACR’s Objection</b>	<b>Court’s Ruling</b>
<p>12 ¶ 4 “If .Africa is 13 delegated to ZACR 14 before this case is 15 resolved, DCA’s mission 16 will be seriously 17 frustrated and funders 18 will likely pull their 19 support due to the 20 uncertainty involved in 21 the re-delegation 22 process.”</p>	<p>Lacks foundation, speculative, conclusory, and assumes facts not in evidence. [Fed. R. Evid. 602.]</p>	
<p>23 ¶ 5 “If .Africa is 24 delegated to ZACR 25 before this case is 26 resolved DCA will likely 27 be forced to stop</p>	<p>Lacks foundation, conclusory, speculative, and assumes facts not in evidence. [Fed. R. Evid. 602.]</p>	

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Bekele II Decl. (#91)	ZACR’s Objection	Court’s Ruling
operating due to lack of funding.”		
¶ 6 “I have searched for examples of gTLD’s being re-delegated but have been unable to find any.”	<p>Relevance. [Fed. R. Evid. 403.] Ms. Bekele’s inability to locate instances of re-delegation does not mean such instances do not exist.</p> <p>In fact, “[o]ver forth gTLDs have had their registry contracts transferred from one registry operator to a different registry operator. ...”</p> <p>[Declaration of Akram Atallah at ¶ 4. See also Exs. B &amp; C to the Supplemental Declaration of Mokgabudi Lucky Masilela.]</p>	
¶ 7 “Based on my understanding of	Lacks personal knowledge, lacks	

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<b>Bekele II Decl. (#91)</b>	<b>ZACR’s Objection</b>	<b>Court’s Ruling</b>
<p>ICANN’s Rules and the requirements of a registry, if .Africa were redelegated 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 re-delegation is simply not viable here. Further, ZACR plans to charge more to registrars than DCA, which will create more complications in the re-delegation process.”</p>	<p>foundation, speculative, conclusory, and assumes facts not in evidence. [Fed. R. Evid. 602.]</p>	

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DATED: May 23, 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