

1 Jeffrey A. LeVee (State Bar No. 125863)  
Erin L. Burke (State Bar No. 186660)  
2 Rachel Tessa Gezerseh (State Bar No. 251299)  
Amanda Pushinsky (State Bar No. 267950)  
3 JONES DAY  
555 South Flower Street  
4 Fiftieth Floor  
Los Angeles, CA 90071.2300  
5 Telephone: +1.213.489.3939  
Facsimile: +1.213.243.2539  
6 Email: jleee@JonesDay.com

7 Attorneys for Defendant  
8 INTERNET CORPORATION FOR  
ASSIGNED NAMES AND NUMBERS  
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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
11 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

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13 DOTCONNECTAFRICA TRUST,

14 Plaintiff,

15 v.

16 INTERNET CORPORATION FOR  
ASSIGNED NAMES AND NUMBERS, *et*  
17 *al.*,

18 Defendants.  
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**CASE NO. BC607494**

Assigned to Hon. Howard L. Halm

**ICANN'S EVIDENTIARY  
OBJECTIONS TO DECLARATION  
OF SOPHIA BEKELE ESHETE  
FILED IN SUPPORT OF  
PLAINTIFF'S MOTION FOR  
PRELIMINARY INJUNCTION**

DATE: December 22, 2016  
TIME: 8:30 a.m.  
DEPT: 53

1 Defendant the Internet Corporation for Assigned Names and Numbers (“ICANN”) hereby  
 2 submits the following evidentiary objections to the Declaration of Sophia Bekele Eshete (“Bekele  
 3 Declaration”), filed in support of plaintiff’s Motion for Preliminary Injunction.  
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<b>OBJECTED-TO PORTION OF BEKELE DECLARATION</b>	<b>GROUND FOR OBJECTION</b>	<b>COURT’S RULING</b>
¶ 6: “If .Africa is delegated to ZACR before this case is resolved, DCA’s mission will be seriously frustrated and funders will likely pull their support due to the uncertainty involved in the re-delegation process.”	<b>1. Speculation (Evid. Code § 702).</b> <b>2. Lacks Foundation (Evid. Code § 403).</b> <b>3. Lacks Personal Knowledge (Evid. Code § 702).</b>  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.	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled
¶ 7: “If .Africa is delegated to ZACR before this case is resolved DCA will likely be forced to stop operating due to a lack of funding.”	<b>1. Lacks Foundation (Evid. Code § 403).</b> <b>2. Lacks Personal Knowledge (Evid. Code § 702).</b> <b>3. Speculation (Evid. Code § 702).</b>  Ms. Bekele fails to lay a foundation as to the source of her knowledge, or demonstrate personal knowledge, of the statement that if .AFRICA is delegated to ZACR before this case is resolved DCA will likely be forced to stop operating due to a lack of funding. Further, the testimony is speculative and should be stricken.	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled

OBJECTED-TO PORTION OF BEKELE DECLARATION	GROUNDS FOR OBJECTION	COURT'S 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><b>1. Lacks Foundation (Evid. Code § 403).</b>  <b>2. Lacks Personal Knowledge (Evid. Code § 702).</b>  <b>3. Improper Opinion Testimony (Evid. Code §§ 800-803).</b></p> <p>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><input type="checkbox"/> Sustained  <input type="checkbox"/> Overruled</p>
<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 re-delegation 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><b>1. Lacks Foundation (Evid. Code § 403).</b>  <b>2. Lacks Personal Knowledge (Evid. Code § 702).</b>  <b>3. Speculation (Evid. Cod. § 702)</b>  <b>4. Improper Opinion Testimony (Evid. Code §§ 800-803).</b>  <b>5. Hearsay (Evid. Code § 1200, et seq.).</b></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.</p> <p>Similarly, Ms. Bekele fails to lay a foundation as to the source of her knowledge or demonstrate personal knowledge as to what amount ZACR</p>	<p><input type="checkbox"/> Sustained  <input type="checkbox"/> Overruled</p>

OBJECTED-TO PORTION OF BEKELE DECLARATION	GROUNDS FOR OBJECTION	COURT'S RULING
	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.	
<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."</p>	<p><b>1. Lacks Foundation (Evid. Code § 403).</b>  <b>2. Lacks Personal Knowledge (Evid. Code § 702).</b>  <b>3. Improper Opinion Testimony (Evid. Code §§ 800-803).</b></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 re-reviewed 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><input type="checkbox"/> Sustained  <input type="checkbox"/> Overruled</p>

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Dated: December 9, 2016

JONES DAY

By: Jeff LeVe  
Jeffrey A. LeVee

Attorneys for Defendant  
INTERNET CORPORATION FOR  
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