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Attorneys for Defendant  
INTERNET CORPORATION FOR ASSIGNED  
NAMES AND NUMBERS

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ORIGINAL FILED  
Superior Court Of California  
County Of Los Angeles

DEC 21 2016

Sherri R. Carter, Executive Officer/Clerk  
By: Cristina Grijalva, Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

DOTCONNECTAFRICA TRUST,  
  
Plaintiff,  
  
v.  
  
INTERNET CORPORATION FOR  
ASSIGNED NAMES AND NUMBERS, et  
al.,  
  
Defendant.

**CASE NO. BC607494**  
  
Assigned for all purposes to  
Hon. Howard L. Halm  
  
**ICANN'S RESPONSES TO DCA'S  
EVIDENTIARY OBJECTIONS TO  
THE DECLARATION OF A.  
ATALLAH**  
  
DATE: December 22, 2016  
TIME: 8:30 a.m.  
DEPT: 53  
  
RESERVATION ID: 1611115174199

1 Defendant Internet Corporation for Assigned Names and Numbers (“ICANN”) hereby  
 2 responds to Plaintiff DotConnectAfrica Trust's (“DCA”) evidentiary objections to the Declaration  
 3 of A. Atallah (“Atallah Decl.”), filed in support of ICANN’s Opposition to DCA’s Motion for  
 4 Preliminary Injunction.  
 5

Atallah Declaration	DCA Objection	ICANN’s Response	Court’s Ruling
<p>7 ¶2: ICANN is a California            8 not-for profit public benefit            9 corporation. ICANN            10 oversees the technical            11 coordination of the            12 Internet’s domain name            13 system (“DNS”) on behalf            14 of the Internet community,            15 ensuring the DNS’s            16 continued security, stability,            17 and integrity. As set forth in            18 the version of ICANN’s            19 Bylaws relevant to this            20 dispute (“Bylaws”),            21 ICANN’s mission “is to            22 coordinate, at the overall            23 level, the global Internet’s            24 system of unique identifiers,            25 and in particular to ensure            the stable and secure            operation of the Internet’s            unique identifier systems,”            including the DNS.            Declaration of Sophia            Bekele Eshete (“Bekele            Decl.”), Ex. 4 (Bylaws, Art.            I, § 1). ICANN’s amended            Bylaw became effective            October 1, 2016, and DCA            does not contend that the            amended Bylaws are            relevant to this dispute.</p>	<p>1. Lacks Foundation            (Evid. Code § 403)             2. Lacks Personal            Knowledge (Evid.            Code § 702)             3. Best Evidence            Rule (Evid. Code §            1520)</p>	<p><u>Foundation/Personal            Knowledge.</u> Mr. Atallah            laid the foundation for            his testimony. Atallah            testified that he is the            President, Global            Domains Division, for            ICANN (Atallah Decl. ¶            1.) As such, he has            personal knowledge of            ICANN’s mission and            functions.   <u>Best Evidence.</u> Mr.            Atallah’s statement is not            offered to prove the            contents of a writing. Mr.            Atallah’s testimony is            based on his personal            knowledge of ICANN’s            mission and Bylaws. A            true and correct copy of            the ICANN Bylaws is in            the record (Bekele Decl.,            Ex. 4.)</p>	
Atallah Declaration	DCA Objection	ICANN’s Response	Court’s Ruling
<p>27 ¶3: The essential function of            28 the DNS is to convert            numeric IP addresses into</p>	<p>1. Lacks Foundation            (Evid. Code § 403)</p>	<p><u>Foundation/Personal            Knowledge.</u> Mr. Atallah            laid the foundation for</p>	

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<p>easily-remembered domain names that permit users to find specific websites, such as “USCOURTS.GOV” and “ICANN.ORG.” The “.GOV” and “.ORG” in these addresses, just like the more well-known “.COM,” are referred to as top-level domains (“TLDs”). ICANN is solely responsible for evaluating potential TLD operators and recommending that TLDs be added to the DNS. No government entity or regulatory scheme governs ICANN’s decisions in that respect.</p>	<p>2. Lacks Personal Knowledge (Evid. Code § 702)</p> <p>3. Improper Opinion Testimony (Evid. Code §720)</p>	<p>his testimony. Atallah testified that he is the President, Global Domains Division, for ICANN (Atallah Decl. ¶ 1.) As such, he has personal knowledge of the function of the DNS, ICANN’s responsibilities related to TLDs, and the lack of government and regulatory governance.</p> <p><u>Opinion Testimony:</u> Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and experience demonstrated by his testimony at ¶ 1, of the function of the DNS, ICANN’s responsibilities related to TLDs, and the lack of government and regulatory governance.</p>	
<p><b>Atallah Declaration</b></p>	<p><b>DCA Objection</b></p>	<p><b>ICANN’s Response</b></p>	<p><b>Court’s Ruling</b></p>
<p>¶4: Throughout its history, ICANN has sought to expand the number of accessible TLDs in the DNS in order to promote consumer choice and competition. The New gTLD Program (“Program”), launched in 2012, constitutes ICANN’s most ambitious expansion of the Internet’s naming system. The Program’s goals include enhancing competition and consumer choice, and enabling the benefits of innovation via the introduction of new generic TLDs (“gTLDs”),</p>	<p>1. Lacks Foundation (Evid. Code § 403)</p> <p>2. Lacks Personal Knowledge (Evid. Code § 702)</p> <p>3. Improper Opinion Testimony (Evid. Code §702)</p>	<p><u>Foundation/Personal Knowledge.</u> Mr. Atallah laid the foundation for his testimony. Atallah testified that he is the President, Global Domains Division, for ICANN (Atallah Decl. ¶ 1.) As such, he has personal knowledge of TLD expansion and the New gTLD Program.</p> <p><u>Opinion Testimony:</u> Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and</p>	

1	including both new ASCII		experience demonstrated	
2	gTLDs and new non-		by his testimony at ¶ 1,	
3	ASCI, internationalized	4. Speculation (Evid.	of TLD expansion and	
4	domain name gTLDs. It	Code § 702)	the New gTLD Program.	
5	resulted in the submission of		<u>Speculation.</u> Mr.	
6	1,930 applications for new		Atallah's own	
7	gTLDs, including DCA's		understanding of TLD	
8	and ZA Central Registry's		expansion and the New	
9	("ZACR's") applications for		gTLD Program is not	
10	the .AFRICA gTLD.		speculative, but a subject	
11			Mr. Atallah has personal	
12			knowledge of.	
13	<b>Atallah Declaration</b>	<b>DCA Objection</b>	<b>ICANN's Response</b>	<b>Court's Ruling</b>
14	¶5: A number of "Advisory	1. Lacks Foundation	<u>Foundation/Personal</u>	
15	Committees" advise	(Evid. Code § 403)	<u>Knowledge.</u> Mr. Atallah	
16	ICANN's Board on various	2. Lacks Personal	laid the foundation for	
17	topics described in the	Knowledge (Evid.	his testimony. Atallah	
18	ICANN Bylaws. The	Code § 702)	testified that he is the	
19	Governmental Advisory	3. Speculation (Evid.	President, Global	
20	Committee ("GAC") has	Code § 702)	Domains Division, for	
21	members composed of	4. Best Evidence	ICANN (Atallah Decl. ¶	
22	national governments and	Rule (Evid. Code §	1.) As such, he has	
23	distinct economies as	1520)	personal knowledge of	
24	recognized in international		the Advisory Committees	
25	fora, including the United		that advise ICANN's	
26	States, and its purpose is to		Board, including the	
27	"consider and provide		GAC.	
28	advice on the activities of		<u>Speculation.</u> Mr.	
	ICANN as they relate to		Atallah's own	
	concerns of governments,		understanding of the	
	particularly matters where		ICANN Bylaws and the	
	there may be an interaction		role of GAC is not	
	between ICANN's policies		speculative, but a subject	
	and various laws and		Mr. Atallah has personal	
	international agreements or		knowledge of.	
	where they may affect		<u>Best Evidence.</u> Mr.	
	public policy issues." Bekele		Atallah's statement is not	
	Decl., Ex. 4		offered to prove the	
	(Bylaws, Art. XI, § 2.1).		contents of a writing. Mr.	
			Atallah's testimony is	
			based on his personal	
			knowledge of the	
			Advisory Committees	
			that advise ICANN's	

1			Board. A true and correct copy of the ICANN Bylaws is in the record (Bekele Decl., Ex. 4.)		
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4	<b>Atallah Declaration</b>	<b>DCA Objection</b>	<b>ICANN's Response</b>	<b>Court's Ruling</b>	
5	¶6: ICANN's Bylaws provide for several accountability mechanisms to ensure that ICANN operates in accordance with its Articles of Incorporation, Bylaws, policies and procedures. <i>See</i> Bekele Decl., Ex. 4 (Bylaws, Arts. IV-V). For example, an aggrieved applicant can file a "request for reconsideration," which is a mechanism that asks the ICANN Board to reevaluate certain Board or staff actions or inactions that the applicant believes have harmed it. <i>Id.</i> (Bylaws, Art. IV, § 2). In addition, an aggrieved applicant can file a "request for independent review," a unique process set forth in ICANN's Bylaws that asks independent panelists to evaluate whether an action of ICANN's Board was consistent with ICANN's Articles of Incorporation and Bylaws. <i>Id.</i> (Bylaws, Art. IV, § 3).	1. Best Evidence Rule (Evid. Code § 1520)	<u>Best Evidence.</u> Mr. Atallah's statement is not offered to prove the contents of a writing. Mr. Atallah's testimony is based on his personal knowledge of the accountability mechanisms provided by ICANN's Bylaws. A true and correct copy of the ICANN Bylaws is in the record (Bekele Decl., Ex. 4.)		
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13			2. Lacks Foundation (Evid. Code § 403)	<u>Foundation/Personal Knowledge.</u> Mr. Atallah laid the foundation for his testimony. Atallah testified that he is the President, Global Domains Division, for ICANN (Atallah Decl. ¶ 1.) As such, he has personal knowledge of the accountability mechanisms provided by ICANN's Bylaws.	
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15		3. Lacks Personal Knowledge (Evid. Code § 702)			
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21		4. Speculation (Evid. Code § 702)	<u>Speculation.</u> Mr. Atallah's own understanding of the ICANN Bylaws is not speculative, but a subject Mr. Atallah has personal knowledge of.		
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26		5. Improper Opinion Testimony (Evid. Code §702)	<u>Opinion Testimony:</u> Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based		
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		on his knowledge and experience demonstrated by his testimony at ¶ 1, of the accountability mechanisms provided by ICANN’s Bylaws.	
<b>Atallah Declaration</b>	<b>DCA Objection</b>	<b>ICANN’s Response</b>	<b>Court’s Ruling</b>
¶7: The Bylaws provide for the IRP panel to issue a written determination “declar[ing] whether an action or inaction of the Board was inconsistent with the Articles of Incorporation or Bylaws” and “recommend[ing] that the Board stay any action or decision, or that the Board take any interim action, until such time as the Board reviews and acts upon the opinion of the IRP.” Bekele Decl., Ex. 4 (Bylaws, Art. IV, § 3.11). The ICANN Board then considers and acts on the determination. <i>Id.</i> (Bylaws, Art. IV, § 3.21).	<p>1. Best Evidence Rule (Evid. Code § 1520)</p> <p>2. Lacks Foundation (Evid. Code § 403)</p> <p>3. Lacks Personal Knowledge (Evid. Code § 702)</p> <p>4. Speculation (Evid. Code § 702)</p> <p>5. Improper Opinion Testimony (Evid. Code §702)</p>	<p><u>Best Evidence.</u> Mr. Atallah’s statement is not offered to prove the contents of a writing. Mr. Atallah’s testimony is based on his personal knowledge of the provisions in ICANN’s bylaws relating to the IRP Panel and the ICANN Board’s consideration of an IRP Panel determination. A true and correct copy of the ICANN Bylaws is in the record (Bekele Decl., Ex. 4.)</p> <p><u>Foundation/Personal Knowledge.</u> Mr. Atallah laid the foundation for his testimony. Atallah testified that he is the President, Global Domains Division, for ICANN (Atallah Decl. ¶ 1.) As such, he has personal knowledge of ICANN’s bylaws relating to the IRP Panel and the ICANN Board’s consideration of an IRP Panel determination.</p> <p><u>Speculation.</u> Mr. Atallah’s own understanding of ICANN’s bylaws relating to the IRP Panel and the ICANN Board’s</p>	

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		<p>consideration of an IRP Panel determination is not speculative, but a subject Mr. Atallah has personal knowledge of.</p> <p><u>Opinion Testimony:</u> Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and experience demonstrated by his testimony at ¶ 1, about ICANN’s bylaws relating to the IRP Panel and the ICANN Board’s consideration of an IRP Panel determination.</p>	
<p><b>Atallah Declaration</b></p>	<p><b>DCA Objection</b></p>	<p><b>ICANN’s Response</b></p>	<p><b>Court’s Ruling</b></p>
<p>¶8: I am informed and believe that prior to the opening of the New gTLD Program application period, only one IRP had resulted in a written determination <i>ICM Registry, LLC v. ICANN</i>. The <i>ICM</i> Panel declared that the determinations of IRP panels were not binding on ICANN’s Board. Attached hereto as Exhibit E is a true and correct copy of an excerpt of the Final Declaration of the <i>ICM</i> Panel.</p>	<p>1. Improper Opinion Testimony (Evid. Code §702)</p> <p>2. Lacks Foundation (Evid. Code § 403)</p> <p>3. Lacks Personal Knowledge (Evid. Code § 702)</p>	<p><u>Opinion Testimony:</u> Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and experience demonstrated by his testimony at ¶ 1, that only one IRP had resulted in a written determination prior to the opening of the New gTLD Program.</p> <p><u>Foundation/Personal Knowledge.</u> Mr. Atallah laid the foundation for his testimony. Atallah testified that he is the President, Global Domains Division, for ICANN (Atallah Decl. ¶ 1.) As such, he has personal knowledge of past IRP written declarations.</p>	

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	<p>4. Lack of Completeness (Evid. Code § 356)</p> <p>5. Best Evidence Rule (Evid. Code § 1520)</p>	<p><u>Lack of Completeness.</u> Evidence Code § 365 merely states, in relevant part, that "[w]here part of an act, declaration, conversation, or writing is given in evidence by one party, the whole on the same subject may be inquired into by an adverse party[.]" Mr. Atallah's declaration references an excerpt from an IRP Final Declaration by the <i>ICM</i> panel. DCA's objection does not go to admissibility. At most, DCA should offer any other portions of the referenced declaration it feels should be considered, which it has not done here.</p> <p><u>Best Evidence.</u> Mr. Atallah's statement is not offered to prove the contents of a writing. Mr. Atallah's testimony is based on his personal knowledge of past IRP written declarations. A true and correct copy of an excerpt of the Final Declaration of the <i>ICM</i> Panel is in the record (Atallah Decl., Exhibit E.)</p>	
<p><b>Atallah Declaration</b></p>	<p><b>DCA Objection</b></p>	<p><b>ICANN's Response</b></p>	<p><b>Court's Ruling</b></p>
<p>¶9: To my knowledge, ICANN has never represented that IRPs are binding. Instead, ICANN has consistently argued that IRP declarations are not binding.</p>	<p>1. Improper Opinion Testimony (Evid. Code §702)</p>	<p><u>Opinion Testimony:</u> Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and experience demonstrated</p>	



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	<p>2. Lacks Foundation (Evid. Code § 403)</p> <p>3. Hearsay (Evid. Code § 1200, et seq.)</p>	<p>by his testimony at ¶ 1, that ICANN has consistently argued that IRP declarations are not binding.</p> <p><u>Foundation.</u> Mr. Atallah laid the foundation for his testimony. Atallah testified that he is the President, Global Domains Division, for ICANN (Atallah Decl. ¶ 1.) As such, he has knowledge of ICANN’s past and present representations with regard to IRPs.</p> <p><u>Hearsay.</u> Mr. Atallah’s testimony is not hearsay as no “statement” is offered to prove the truth of the matter stated. Rather, the testimony represents Mr. Atallah’s testimony of events that he perceived during his employment with ICANN.</p>	
<p><b>Atallah Declaration</b></p>	<p><b>DCA Objection</b></p>	<p><b>ICANN’s Response</b></p>	<p><b>Court’s Ruling</b></p>
<p>¶10: In the case of the DCA IRP, the DCA Panel declared that its decision would be binding on ICANN’s Board. But the question of whether the Panel’s declaration was or was not legally binding became a moot issue once ICANN’s Board elected to adopt all of the DCA Panel’s recommendations, contrary to the representations in Plaintiff’s Motion for Preliminary Injunction.</p>	<p>1. Lacks Foundation (Evid. Code § 403)</p>	<p><u>Foundation.</u> Mr. Atallah laid the foundation for his testimony. Atallah testified that he is the President, Global Domains Division, for ICANN (Atallah Decl. ¶ 1.) As such, he has knowledge of the DCA IRP Panel’s decision and the ICANN Board’s election to adopt the DCA Panel’s recommendations.</p> <p><u>Best Evidence.</u> Mr.</p>	

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	<p>2. Best Evidence Rule (Evid. Code § 1520)</p> <p>3. Improper Opinion Testimony (Evid. Code §702)</p> <p>4. Hearsay (Evid. Code § 1200, et seq.)</p>	<p>Atallah’s statement is not offered to prove the contents of a writings. Mr. Atallah’s testimony is based on his personal knowledge of the DCA IRP Panel’s decision and the ICANN Board’s election to adopt the DCA Panel’s recommendations. A true and correct copy of ICANN Board Resolutions 2015.07.16.01-05, adopting the <i>DCA</i> Panel’s recommendations is in the record (Atallah Decl., Exhibit F.)</p> <p><u>Opinion Testimony:</u> Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and experience demonstrated by his testimony at ¶ 1, of the DCA Panel’s decision and the ICANN Board’s election to adopt the DCA Panel’s recommendations.</p> <p><u>Hearsay.</u> Mr. Atallah’s testimony is not hearsay as no “statement” is offered to prove the truth of the matter stated. Rather, the testimony represents Mr. Atallah’s testimony of events that he perceived during his employment with ICANN.</p>	
<b>Atallah Declaration</b>	<b>DCA Objection</b>	<b>ICANN’s Response</b>	<b>Court’s Ruling</b>

<p>1 ¶11: Specifically, on July 9, 2 2015, the <i>DCA</i> Panel issued 3 its Final Declaration. Bekele 4 Decl., Ex. 1. The <i>DCA</i> Panel 5 determined that ICANN’s 6 Board had violated 7 ICANN’s Articles of 8 Incorporation and Bylaws 9 by accepting the GAC’s 10 consensus advice that 11 Plaintiff’s application 12 for .AFRICA 13 (“Application”) should not 14 proceed. The <i>DCA</i> Panel 15 therefore recommended that 16 “ICANN continue to refrain 17 from delegating 18 the .AFRICA gTLD and 19 permit [Plaintiff]’s 20 application to proceed 21 through the remainder of the 22 new gTLD application 23 process.” Bekele Decl., Ex. 24 1 ¶ 149.</p>	<p>1. Best Evidence Rule (Evid. Code § 1520)</p> <p>2. Lacks Personal Knowledge (Evid. Code § 720)</p>	<p><u>Best Evidence.</u> Mr. Atallah’s statement is not offered to prove the contents of a writing. Mr. Atallah’s testimony is based on his personal knowledge of the <i>DCA</i> IRP Panel’s Final Declaration and recommendation. A true and correct copy of the <i>DCA</i> Panel’s Declaration is in the record (Bekele Decl., Ex. 1.)</p> <p><u>Personal Knowledge.</u> Mr. Atallah testified that he is the President, Global Domains Division, for ICANN (Atallah Decl. ¶ 1.) As such, he has personal knowledge of the <i>DCA</i> IRP Panel’s Final Declaration and recommendation.</p>	
<p><b>Atallah Declaration</b></p>	<p><b>DCA Objection</b></p>	<p><b>ICANN’s Response</b></p>	<p><b>Court’s Ruling</b></p>
<p>17 ¶12: ICANN’s Board 18 promptly considered and 19 adopted each of the <i>DCA</i> 20 Panel’s recommendations. 21 On July 16, 2015, the Board 22 resolved to “continue to 23 refrain from delegating 24 the .AFRICA gTLD,” 25 “permit [Plaintiff]’s 26 application to proceed 27 through the remainder of the 28 new gTLD application process,” and “reimburse <i>DCA</i> for the costs of the IRP.” Attached hereto as <b>Exhibit F</b> is a true and correct copy of ICANN Board Resolutions 2015.07.16.01-05, adopting the <i>DCA</i> Panel’s recommendations.</p>	<p>1. Improper Opinion Testimony (Evid. Code §702)</p> <p>2. Lacks Foundation (Evid. Code § 403)</p>	<p><u>Opinion Testimony:</u> Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and experience demonstrated by his testimony at ¶ 1, that the ICANN Board adopted each of the <i>DCA</i> Panel’s recommendations.</p> <p><u>Foundation.</u> Mr. Atallah laid the foundation for his testimony. Atallah testified that he is the President, Global Domains Division, for ICANN (Atallah Decl. ¶ 1.) As such, he has</p>	

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	<p>3. Best Evidence Rule (Evid. Code § 1520)</p>	<p>knowledge of the ICANN Board’s consideration and adoption of the DCA IRP Panel’s recommendations and the ICANN Board’s resolution.</p> <p><u>Best Evidence.</u> Mr. Atallah’s statement is not offered to prove the contents of a writing. Mr. Atallah’s testimony is based on his personal knowledge of the ICANN Board’s consideration and adoption of the DCA IRP Panel’s recommendations and the ICANN Board’s resolution. A true and correct copy of ICANN Board Resolutions 2015.07.16.01-05, adopting the DCA Panel’s recommendations is in the record (Atallah Decl., Exhibit F.)</p>	
<p><b>Atallah Declaration</b></p> <p>¶13: In the event ICANN is permitted to delegate the .AFRICA gTLD to ZACR, a transfer or assignment of the gTLD in the future would still be possible, feasible and consistent with ICANN’s previous conduct. In fact, over forty gTLDs have had their registry contracts transferred from one registry operator to a different registry operator, <i>i.e.</i>, transferred for operation by a different registry operator than the operator when the registry contract was</p>	<p><b>DCA Objection</b></p> <p>1. Improper Opinion Testimony (Evid. Code §702)</p> <p>2. Lacks Foundation (Evid. Code § 403)</p>	<p><b>ICANN’s Response</b></p> <p><u>Opinion Testimony:</u> Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and experience demonstrated by his testimony at ¶ 1, that a transfer of the .AFRICA gTLD post-delegation would be possible.</p> <p><u>Foundation/Personal Knowledge.</u> Mr. Atallah laid the foundation for his testimony. Atallah testified that he is the</p>	<p><b>Court’s Ruling</b></p>

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	initially executed. These transfers have occurred for a number of reasons, and transfers are not limited to situations where a registry's contract with ICANN was expiring.	4. Lacks Personal Knowledge (Evid. Code § 702)	President, Global Domains Division, for ICANN (Atallah Decl. ¶ 1.) As such, he has personal knowledge of the possibility of a transfer or assignment of the .AFRICA gTLD after delegation and of the existence of other gTLDs that have had their registry contracts transferred.	
		3. Speculation (Evid. Code § 702)	<u>Speculation.</u> Mr. Atallah's own understanding of the possibility of a transfer or assignment of the .AFRICA gTLD after delegation and the existence of other gTLDs that have had their registry contracts transferred is not speculative, but a subject Mr. Atallah has personal knowledge of.	
18	<b>Atallah Declaration</b>	<b>DCA Objection</b>	<b>ICANN's Response</b>	<b>Court's Ruling</b>
19 20 21 22 23 24 25 26 27 28	¶14: Nor is there any truth to DCA's argument in its Motion (at p. 12) that "the U.S. government's ties with ICANN ceased" and therefore "the current procedure for gTLD redelegation is uncertain." In fact, nothing about the recent transition of the Internet Assigned Numbers Authority ("IANA") functions from the United States government to ICANN has any effect whatsoever upon the fact that it is possible to transfer	1. Improper Opinion Testimony (Evid. Code §702)	<u>Opinion Testimony:</u> Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and experience demonstrated by his testimony at ¶ 1, that the transition of the IANA functions from the U.S. governt to ICANN has not had any effect on the possibility to transfer the operation rights of a new gTLD from one registry operator to another, post-delegation.	

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the rights to operate a new gTLD from one registry operator to another, post-delegation.

2. Lacks Foundation (Evid. Code § 403)

4. Lacks Personal Knowledge (Evid. Code § 702)

3. Speculation (Evid. Code § 702)

5. Best Evidence Rule (Evid. Code §1520)

Foundation/Personal Knowledge. Mr. Atallah laid the foundation for his testimony. Atallah testified that he is the President, Global Domains Division, for ICANN (Atallah Decl. ¶ 1.) As such, he has knowledge of the transition of functions from the U.S. government to ICANN and the possibility of transferring operation rights for a new gTLD from one registry operation to another post-delegation.

Speculation. Mr. Atallah's own understanding of the transition of functions from the U.S. government to ICANN and the possibility of transferring operation rights for a new gTLD from one registry operation to another post-delegation is not speculative, but a subject Mr. Atallah has personal knowledge of.

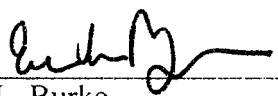
Best Evidence. Mr. Atallah's statement is not offered to prove the contents of a writing. Mr. Atallah's testimony is based on his personal knowledge of the transition of functions from the U.S. government to ICANN and the possibility of

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		transferring operation rights for a new gTLD from one registry operation to another post-delegation.	
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Dated: December 21, 2016

Jones Day

By:   
Erin L. Burke

Attorneys for Defendant  
INTERNET CORPORATION FOR  
ASSIGNED NAMES AND NUMBERS

1 **PROOF OF SERVICE**

2 I, Diane Sanchez, declare:

3 I am a citizen of the United States and employed in Los Angeles County, California. I am  
4 over the age of eighteen years and not a party to the within-entitled action. My business address  
5 is 555 South Flower Street, Fiftieth Floor, Los Angeles, California 90071.2300. On December  
6 21, 2016, I served a copy of the within document(s):

7 **ICANN'S RESPONSES TO DCA'S EVIDENTIARY OBJECTIONS TO THE**  
8 **DECLARATION OF A. ATALLAH**

- 9  by placing the document(s) listed above in a sealed envelope with postage thereon  
10 fully prepaid, in the United States mail at Los Angeles, California addressed as set  
forth below.
- 11  by placing the document(s) listed above in a sealed Federal Express envelope and  
12 affixing a pre-paid air bill, and causing the envelope to be delivered to a Delivery  
Service agent for delivery.
- 13  by personally delivering the document(s) listed above to the person(s) at the  
14 address(es) set forth below.
- 15  by transmitting via e-mail or electronic transmission the document(s) listed above  
16 to the person(s) at the e-mail address(es) set forth below.

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*Via Email & Federal Express*

22 *Via Email & Federal Express*

23 I declare that I am employed in the office of a member of the bar of this court at whose  
24 direction the service was made.

25 Executed on December 21, 2016, at Los Angeles, California.

26  
27   
28 Diane Sanchez