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Defendant Internet Corporation for Assigned Names and Numbers ("ICANN") hereby responds to Plaintiff DotConnectAfrica Trust's objections to the Declaration of Christine Willett:

4	Willett Declaration	Plaintiff's	ICANN's	Court's Ruling
5	<b>43</b> . "There	Objection Leafur form dation	Response	-
6	<b>¶2:</b> "Those applications are	Lacks foundation [Fed. R. Evid. 602]	Ms. Willett testified that she is	
	evaluated in	and the Guidebook	the Vice President	
7	accordance with	is the best evidence	for Operations of	
8	the procedures set	of the Guidebook	the Global	
9	forth in the New	[Fed. R. Evid.	<b>Domains Division</b>	
9	gTLD Applicant	1002]. In fact, the	of ICANN, and	
10	Guidebook	IRP Panel already	that in that role she	
11	("Guidebook")."	concluded that	was responsible for	
		DCA's application	overseeing the	
12		was not handled in accordance with	evaluation of applications	
13		ICANN's Bylaws,	received as part of	
14		Articles and rules.	the New gTLD	
15			Program. (Willett	
			Decl. ¶¶ 1-2.) As	
16			such, she has	
17			personal	
18			knowledge of the procedures	
			governing the	
19			evaluation of New	
20			gTLD applications.	
21				
22	<b>¶3:</b> "In the spring	Conclusory, lacks	Ms. Willett	
	of 2012, Plaintiff	foundation, lacks	testified that she is	
23	and ZA Central	personal	the Vice President	
24	Registry ("ZACR")	knowledge [Fed.	for Operations of	
25	each submitted	R. Evid. 602].	the Global	
26	applications to		Domains Division	
	operate the .AFRICA gTLD.		of ICANN and that in that role she was	
27	In doing so, they,		responsible for	
28	like all new gTLD		overseeing the	
		•		ESPONSE TO PLAINTIFF'S

ICANN'S RESPONSE TO PLAINTIFF'S OBJECTIONS TO WILLET DECL 2:16-ev-00862-RGK (JCx)

1	Willett Declaration	Plaintiff's Objection	ICANN's Response	Court's Ruling
2	applicants,	.,	evaluation of	
3	expressly accepted		applications	
	and acknowledged		received as part of	
4	the Guidebook,		the New gTLD	
5	including the		Program. (Willett	
6	release and		Decl. ¶¶ 1-2.) As	
6	covenant not to sue		such, she has	
7	found in paragraph		personal	
8	6 of Module 6."		knowledge	
			regarding the	
9			applications	
10			received as part of	
			the New gTLD	
11			Program, as well as regarding the	
12			Terms and	
13			Conditions to	
13			which New gTLD	
14			applicants agreed.	
15			uppromiss ugrees.	
	¶5: "The new	Completeness	Exhibit A contains	
16	gTLD application	doctrine [Fed. R.	all the portions of	
17	was complex and	Evid. 106] The	Plaintiff's	
18	required	Guidebook is the	Application that	
10	considerable detail.	best evidence of	ICANN believes	
19	A list of the	the Guidebook	are relevant to the	
20	information new	[Fed. R. Evid.	determination of	
	gTLD applicants	1002].	Plaintiff's Motion	
21	were required to		for Preliminary	
22	submit with their		Injunction. Plaintiff is in	
23	applications can be found in the		possession of its	
	Guidebook.		own Application	
24	(Guidebook at 201-		and was free to	
25	42 (A-1 -A46).)		enter the full	
	Among other		Application into	
26	things, each		the record, as	
27	applicant was		provided by Fed.	
28	required to submit		R. Evid. 106.	

1	Willett Declaration	Plaintiff's Objection	ICANN's Response	Court's Ruling
2	an extensive,	./	•	
3	technical		The Court may	
	explanation of its		refer to the	
4	plans for operating		Guidebook, which	
5	a gTLD registry.		is part of the	
6	Attached hereto as		record. (Eshete	
6	Exhibit A is a true		Decl. Ex. 3, ECF.	
7	and correct copy is		No. 17-3.)	
8	a partial excerpt of			
	the technical			
9	explanation			
10	Plaintiff submitted as part of its New			
	gTLD Application.			
11	As required,			
12	Plaintiff also			
13	submitted evidence			
	of substantial			
14	financial support			
15	for its			
16	Application."			
	<b>¶6:</b> "In addition,	The Guidebook is	The Court may	
17	because Plaintiff	the best evidence	refer to the	
18	and ZACR had	of the Guidebook	Guidebook, which	
	each applied for a	[Fed. R. Evid.	is part of the	
19	gTLD that	1002].	record. (Eshete	
20	represents the name of a		Decl. Ex. 3, ECF. No. 17-3.)	
21	geographic region,		·	
22	in this instance, a			
23	continent, the Guidebook			
	requires that			
24	Plaintiff and			
25	ZACR each			
26	provide			
	documentation of			
27	support or non-			
28	objection from at			

1	Willett Declaration	Plaintiff's Objection	ICANN's Response	Court's Ruling
2	least 60% of the	O O J C CHOII	Response	
3	governments in the			
_	region. (Eshete			
4	Decl. Ex. 3			
5	("Guidebook") at			
6	170-72			
	(§2.2.1.4.2).) The Guidebook also			
7	provides that a			
8	Geographic Names			
9	Panel operated by			
	a third-party			
10	vendor retained by			
11	ICANN must			
12	verify the			
	relevance and			
13	authenticity of an applicant's			
14	documentation of			
15	support. (Id. At			
	173-175			
16	(§2.2.1.4.4).) The			
17	Guidebook			
18	contemplated the			
	possibility that			
19	more than one			
20	application for a geographic gTLD			
21	would be			
	determined to have			
22	the requisite			
23	support and would			
24	also pass all			
	of the other			
25	evaluations			
26	(technical, financial and so			
27	forth). In the event			
	that both are			
28				-

1	Willett Declaration	Plaintiff's Objection	ICANN's Response	Court's Ruling
2	supported by the			
3	same government			
	or public authority,			
4	and that			
5	government or			
6	public authority so			
	requests, the			
7	applications are			
8	placed in a "contention set"			
9	that could be			
9	resolved via an			
10	auction or other			
11	processes since			
	only one registry			
12	operator can			
13	operate a Top			
14	Level Domain			
	consisting of the			
15	exact same letters.			
16	( <i>Id.</i> ) Otherwise,			
17	assuming that the applicants do no			
17	reach a resolution			
18	amongst			
19	themselves, their			
	applications will be			
20	rejected. (Id.)"1			
21	¶7: "Plaintiff	Lacks personal	Ms. Willett	
22	submitted with its	knowledge, lacks	testified that she is	
	Application what it	foundation, and	the Vice President	
23	called a letter of	speculative [Fed.	for Operations of	
24	support dated in	R. Evid. 602].	the Global	
25	2009 (three years earlier) from the	Prejudicial [Fed. R. Evid. 403;	Domains Division of ICANN and that	
	African Union	Bekele Decl. ¶15,	in that role she was	
26	Commission	Ex. 7 (Unlike the	responsible for	
27	("AUC"). A copy	initial letter of	overseeing the	
28	of that letter is	support from the	evaluation of	

1	Willett Declaration	Plaintiff's	ICANN's	Court's Ruling
2	attached as Exhibit	Objection AUC, the	Response applications	
3	6 to the Eshete	subsequent letter	received as part of	
	Declaration. I have	omitted any	the New gTLD	
4	been informed that	official stamp, was	Program. (Willett	
5	in 2010, Plaintiff	not signed by the	Decl. ¶¶ 1-2.) As	
6	had received a	AUC Chairman,	such, she has	
6	letter from the	and instead was	personal	
7	AUC (and all of	signed by Mr.	knowledge	
8	the African	Yedaly)]. The	regarding the	
	governments that were its members)	statement is also	documents Plaintiff submitted	
9	that formally	materially misleading because	with its	
10	withdrew the	it fails to state that	Application.	
11	AUC's support for	DCA specifically	1 ippii cution.	
	Plaintiff. A copy of	identified the	Plaintiff does not	
12	that letter is	purported	dispute Ms.	
13	attached as Exhibit	withdrawal in its	Willett's testimony	
14	7 to the Eshete	application to	that Plaintiff did	
	Declaration.	ICANN [Fed. R.	not submit with its	
15	Plaintiff did not	Evid. 403].	Application the	
16	submit with its		AUC's 2010 letter.	
17	Application to ICANN the 2010		Plaintiff does not	
1 /	letter from the		explain how Ms.	
18	AUC to Plaintiff		Willett's testimony	
19	withdrawing its		regarding the	
	support for		AUC's 2010 letter	
20	Plaintiff.		is in any way	
21			prejudicial. The	
22			testimony is	
			directly relevant to	
23			Plaintiff's claims, insofar as it	
24			demonstrates that	
25			Plaintiff knew or	
			should have known	
26			at the time it	
27			submitted its	
28			Application that	

1	Willett Declaration	Plaintiff's	ICANN's	Court's Ruling
2		Objection	Response Plaintiff did not	
			have the requisite	
3			support of African	
4			governments, a	
5			critical component	
_			of the application.	
6	<b>¶9:</b> "On June 5,	Lacks foundation	Ms. Willett	
7	2013, at the time	[Fed. R. Evid.	testified that she is	
8	when ICANN's	602].	the Vice President	
	Board accepted the		for Operations of	
9	Governmental		the Global	
10	Advisory		Domains Division	
	Committee's ("GAC's") advice		of ICANN and that in that role she was	
11	objecting to		responsible for	
12	Plaintiff's		overseeing the	
13	Application,		evaluation of	
	Plaintiff had		applications	
14	already passed all		received as part of	
15	of the Initial		the New gTLD	
16	Evaluation reviews		Program. (Willett	
	except		Decl. ¶¶ 1-2.) As	
17	for the Geographic		such, she has	
18	Names Panel		personal	
19	review. At that time, the		knowledge of regarding the	
	Geographic Names		evaluation of New	
20	Panel was in the		gTLD applications.	
21	midst of its review		8122 uppromission	
	of Plaintiff's			
22	Application; it had			
23	determined that the			
24	documented			
	support submitted			
25	by Plaintiff,			
26	including the letters from the			
27	AUC and UNECA,			
	did not meet the			
28	ara not most the			

1	Willett Declaration	Plaintiff's Objection	ICANN's Response	Court's Ruling
2	criteria set forth in		1105   01150	
3	the Guidebook,			
	and was therefore			
4	planning to send			
5	"clarifying			
_	questions" to			
6	Plaintiff.			
7	Clarifying			
8	questions are sent			
0	where documented			
9	support does not			
10	meet the criteria			
	set forth in the			
11	Guidebook and are			
12	an accommodation			
	to provide applicants an			
13	opportunity to			
14	explain/supplement			
15	their			
	documentation.			
16	However, as a			
17	result of the			
	ICANN Board's			
18	acceptance of the			
19	GAC's advice,			
20	Plaintiff's			
20	Application was			
21	removed from			
22	further processing,			
23	and the clarifying questions were not			
23	sent at that time."			
24	<b>¶10.</b> "By July 31,	Lacks foundation	Ms. Willett	
25	2015 following	and conclusory	testified that she is	
	ICANN's Board's	[Fed. R. Evid. 602;	the Vice President	
26	adoption of the	Local Rule 7-7	for Operations of	
27	recommendations	(Declarations shall	the Global	
28	of the independent	contain only	Domains Division	

1	Willett Declaration	Plaintiff's Objection	ICANN's Response	Court's Ruling
2	review panel in	factual, evidentiary	of ICANN and that	
3	DCA v. ICANN	matter and shall	in that role she was	
	("IRP Panel"),	conform as far as	responsible for	
4	Plaintiff's	possible to the	overseeing the	
5	Application was	requirements of	evaluation of	
_	returned to	F.R.Civ.P.	applications	
6	processing as the	56(c)(4)]. The	received as part of	
7	Board directed.	clarifying	the New gTLD	
0	Contrary to what	questions are the	Program. (Willett	
8	Plaintiff argues on	best evidence of	Decl. ¶¶ 1-2.) As	
9	page 1 of its	the clarifying	such, she has	
10	motion for	questions [Fed. R.	personal	
	preliminary	Evid. 1002; Bekele	knowledge of	
11	injunction,	Decl. ¶24, Ex. 15].	regarding the	
12	Plaintiff's		evaluation of New	
	Application was		gTLD applications,	
13	not returned to the		and Plaintiff does	
14	"beginning of the		not explain why	
1.5	process." Instead it was returned to		she might not have such knowledge.	
15	precisely the		such knowledge.	
16	portion of the		The Court may	
17	review that was		refer to the	
	pending on the		clarifying	
18	date the		questions, which	
19	Application was		are part of the	
	removed from		record. (Eshete	
20	processing – the		Decl. Ex. 15, ECF	
21	Geographic Names		No. 17-15.)	
22	Panel review. As			
	the Geographic			
23	Names Panel had			
24	been preparing to			
	do when Plaintiff's			
25	Application was			
26	removed from processing, the			
27	Geographic Names			
	Panel sent Plaintiff			
28	I diff boilt I lumitiff			

1	Willett Declaration	Plaintiff's Objection	ICANN's Response	Court's Ruling
2	clarifying	Objection	Response	
3	questions			
	regarding			
4	the documentation			
5	Plaintiff had			
	submitted with its			
6	Application. Those			
7	clarifying			
8	questions are			
	attached as Exhibit			
9	15 to the Eshete			
10	Declaration.			
	Plaintiff was given			
11	an opportunity to respond to those			
12	questions. Instead			
13	of supplementing			
13	its documentation,			
14	Plaintiff took the			
15	position that the			
	documentation it			
16	had submitted with			
17	its Application in			
18	2012 was			
10	sufficient."			
19	¶14: "Accordingly,	Lacks personal	Ms. Willett	
20	on March 3, 2016,	knowledge, lacks	testified that she is	
	ICANN's Board	foundation, and	the Vice President	
21	adopted a	conclusory [Fed.	for Operations of	
22	resolution lifting the stay on the	R. Evid. 602; Local Rule 7-7	the Global Domains Division	
23	delegation of	(Declarations shall	of ICANN and that	
	.AFRICA, a stay	contain only	in that role she was	
24	that had been in	factual, evidentiary	responsible for	
25	place since 2014	matter and shall	overseeing the	
	and continued	conform as far as	evaluation of	
26	pending ICANN's	possible to the	applications	
27	full compliance	requirements of	received as part of	
28	with the IRP	F.R.Civ.P.	the New gTLD	

1	Willett Declaration	Plaintiff's Objection	ICANN's Response	Court's Ruling
2	Panel's	56(c)(4)]. The best	Program. (Willett	
3	recommendation	evidence of the	Decl. ¶¶ 1-2.) As	
4	that ICANN	March 3, 2016	such, she has	
5	resume its evaluation of	Board resolution is the March 3, 2016	personal knowledge	
	Plaintiff's	Board resolution.	regarding the	
6	Application for	Prejudicial [Fed. R.	ICANN Board's	
7	.AFRICA. A true	Evid. 403 (DCA's	March 3, 2016	
8	and correct copy of the Board's	Motion for Preliminary	resolution with respect	
9	resolution is	Injunction was	to .AFRICA and is	
	attached to this	filed on March 1,	competent to	
10	declaration as	2016 and TRO was	authenticate that	
11	Exhibit C."	filed on March 2, 2016.)].	resolution.	
12		2010./j.	The Court may	
13			refer to the March	
14			3, 2016 resolution,	
15			which is part of the record. (Willett	
			Decl. Ex. C, ECF	
16			No. 39-3.)	
17			Plaintiff does not	
18			explain how Ms.	
19			Willett's testimony	
20			regarding the	
			March 3, 2016 is in	
21			any way prejudicial.	
22	Dated: March 28,	2016	JONES DAY	
23	Dated: March 28,	2010	JUNES DA I	
24				
25			By: <u>/s/ Jeffrey A. LeV</u> Jeffrey A. LeV	Vee
26				
27			Attorneys for Defend INTERNET CORPO	RATION FOR
			ASSIGNED NAMES	S AND NUMBERS
28		- 1	OBJECT	ESPONSE TO PLAINTIFF'S TIONS TO WILLETT DECL. 2:16-cv-00862-RGK (JCx)