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11 DOTCONNECTAFRICA TRUST

12 **UNITED STATES DISTRICT COURT**

13 **CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION**

14 DOTCONNECTAFRICA TRUST, a
15 Mauritius Trust,

16 Plaintiff,

17 v.

18 INTERNET CORPORATION FOR
19 ASSIGNED NAMES AND NUMBERS,
20 a California corporation; ZA Central
21 Registry, a South African non-profit;
22 DOES 1 through 50, inclusive,

23 Defendants.

Case No. 2:16-cv-00862-RGK (JCx)

24 **PLAINTIFF’S RESPONSE TO ZA
25 CENTRAL REGISTRY, NPC’S
26 CONSOLIDATED EVIDENTIARY
27 OBJECTIONS TO
28 DECLARATIONS OF SARA C.
COLÓN**

Date: June 6, 2016

Hearing: 9:00 a.m.

Courtroom: 850

[Filed concurrently: Plaintiff’s
Response to ZA Central Registry,
NPC’s Consolidated Evidentiary
Objections to Declarations of Sophia
Bekele Eshete and Evidentiary
Objections to Supplemental
Declaration of Mokgabudi Lucky
Masilela]

1 Plaintiff DOTCONNECTAFRICA TRUST (“DCA”) hereby responds to ZA
 2 Central Registry, NPC’s (“ZACR”) evidentiary objections to the declarations of
 3 Sara C. Colón (Dkt. No. 46 – “Colón Decl.”; Dkt. No. 92 – “Colón II Decl.”).

4 As an initial matter, the Court should not consider ZACR’s objections to the
 5 Colón. Decl., which DCA filed with its motion for preliminary injunction papers.
 6 Evidentiary objections must be filed before a hearing on the motion to which they
 7 relate. *See Traylor v. Pyramid Servs.*, 2008 U.S. Dist. LEXIS 73494 at *4 (C.D.
 8 Cal. September 23, 2008). ZACR was served with the initial preliminary
 9 injunction motion and supporting declarations on March 22, 2016, had counsel as
 10 of April 1, 2016, and could have made evidentiary objections to the declarations
 11 filed in support of the preliminary injunction papers before the Court ruled on
 12 April 12, 2016. *See* Docket No. 55; Declaration of Sara C. Colón (Docket No. 92)
 13 Ex. 5. At the very least, ZACR could have filed these evidentiary objections with
 14 its initial motion for reconsideration. Its failure to do so was apparently calculated
 15 to prevent DCA from addressing those objections in its opposition.

16 Furthermore, ZACR’s objections are made after the Court considered the
 17 evidence and made its ruling. Thus, the Court accepted the evidence and ZACR
 18 waived any objections. Accordingly, these objections are not timely and the Court
 19 should not consider them. For the same reasons, DCA declines to respond to
 20 ZACR’s specific objections to the Colón Decl. (Docket No. 46).

21 DCA responds to the Colón II Declaration as follows (Docket No. 92):

22 **PLAINTIFF’S RESPONSE**

Colón II Declaration	ZACR’s Objection	DCA’s Response	Ruling
¶5: “DCA’s application for a temporary restraining order and motion for preliminary injunction contained	Relevance. [Fed. R. Evid. 403]. The documents themselves are the best evidence of their content. [Fed. R. Evid. 1002].	ZACR’s knowledge of the temporary restraining order papers is relevant to show its knowledge	

<p>1 arguments that were 2 almost identical.”</p>		<p>and notice of the issues in the preliminary injunction papers, which raised nearly identical facts and legal issues.</p>
<p>7 ¶ 8 & Ex. 5 8 “Attached hereto as 9 Exhibit 5 is a true and 10 correct copy of the 11 email chain between 12 myself and counsel for 13 ZACR beginning on 14 April 1, 2016.”</p>	<p>Relevance. [Fed. R. Evid. 403].</p>	<p>The email demonstrates that ZACR had counsel prior to the Court’s order on the Motion for a Preliminary Injunction and that instead of seeking leave for additional briefing on ZACR’s behalf, ZACR choose not to take action while contemplating a personal jurisdiction defense.</p>

23 Dated: May 26, 2016

BROWN NERI SMITH & KHAN LLP

25 By: /s/ Ethan J. Brown
26 Ethan J. Brown

27 *Attorneys for Plaintiff*
28 DOTCONNECTAFRICA TRUST

CERTIFICATE OF SERVICE

I, Ethan J. Brown, hereby declare under penalty of perjury as follows:

I am a partner at the law firm of Brown, Neri Smith & Khan LLP, with offices at 11766 Wilshire Blvd., Los Angeles, California 90025. On May 26, 2016, I caused the foregoing **PLAINTIFF’S RESPONSE TO ZA CENTRAL REGISTRY, NPC’S CONSOLIDATED EVIDENTIARY OBJECTIONS TO DECLARATIONS OF SARA C. COLÓN** to be electronically filed with the Clerk of the Court using the CM/ECF system which sent notification of such filing to counsel of record.

Executed on May 26, 2016

/s/ Ethan J. Brown