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11 DOTCONNECTAFRICA TRUST

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

13 **COUNTY OF LOS ANGELES - CENTRAL**

14 DOTCONNECTAFRICA TRUST, a Mauritius  
15 Charitable Trust;

16 Plaintiff,

17 v.

18 INTERNET CORPORATION FOR  
19 ASSIGNED NAMES AND NUMBERS, a  
20 California corporation;

21 Defendants.

Case No. BC607494

Assigned for all purposes to the Honorable  
Howard L. Halm

**EVIDENTIARY OBJECTIONS TO  
DECLARATION OF KEVIN ESPINOLA  
IN SUPPORT OF ICANN'S OPPOSITION  
TO PLAINTIFF'S MOTION FOR  
PRELIMINARY INJUNCTION**

DATE: December 22, 2016

TIME: 8:30 a.m.

DEPT: 53

**Objections to Declaration of Kevin Espinola**

<b>Espinola Declaration ¶</b>	<b>DCA Objection</b>	<b>Sustained</b>	<b>Overruled</b>
<p>¶2: ICANN and its community developed the New gTLD Applicant Guidebook (“Guidebook”) as part of a years-long, bottom-up multistakeholder process during which numerous versions were published by ICANN for public comment and revised, in part based on comments received. In total, six versions of the Guidebook were published for public comment.</p>	<p>1. Lacks Foundation (Evid. Code § 403) 2. Lacks Personal Knowledge (Evid. Code § 702) 3. Best Evidence Rule (Evid. Code § 1520)</p>		
<b>Espinola Declaration ¶</b>	<b>DCA Objection</b>	<b>Sustained</b>	<b>Overruled</b>
<p>¶3: In the April 15, 2011 version of the Guidebook (“April 2011 Guidebook”), language was added to Section 6 of Module 6 of the Guidebook (“Covenant Not to Sue”) making explicit that: “[an] applicant may utilize any accountability mechanism set forth in ICANN’s Bylaws for [the] purposes of challenging any final decision made by ICANN with respect to the application.” Attached hereto as Exhibit K is a true and correct copy of Module 6 of the April 2011 version of</p>	<p>1. Lacks Foundation (Evid. Code § 403) 2. Lacks Personal Knowledge (Evid. Code § 702) 3. Improper Opinion Testimony (Evid. Code §§800-803) 4. Best Evidence Rule (Evid. Code § 1520)</p>		

1 the Guidebook, which was published  
 2 with a redline, showing changes made  
 3 from the prior version of the  
 4 Guidebook.

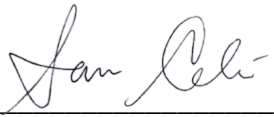
<b>Espinola Declaration ¶</b>	<b>DCA Objection</b>	<b>Sustained</b>	<b>Overruled</b>
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<p>6 ¶4: As ICANN has stated publicly,          7 ICANN is a not-for-profit public          8 benefit corporation and anticipated          9 that, absent a broad waiver and          10 limitation of liability in the          11 Guidebook’s terms and conditions,          12 the over 1,900 applicants could          13 initiate frivolous and costly legal          14 actions in an attempt to challenge          15 legitimate ICANN decisions, which          16 would imperil the successful          17 implementation of the New gTLD          18 Program. Accordingly, ICANN          19 carefully considered how to protect          20 the New gTLD Program from such          21 challenges, and the Covenant Not to          22 Sue in the Guidebook was deemed          23 appropriate in light of these          24 considerations.</p>	<p>1. Lacks Foundation (Evid. Code § 403)          2. Lacks Personal Knowledge (Evid. Code § 702)          3. Speculation (Evid. Code § 702)          4. Hearsay (Evid. Code § 1200, et seq.)          5. Improper Opinion Testimony (Evid. Code §702)</p>		
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Dated: December 15, 2016

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By:   
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