

EXHIBIT 1

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

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 DOTCONNECTAFRICA TRUST,)
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 Plaintiff,)
)
 vs.)No. BC607494
)
 INTERNET CORPORATION FOR)
 ASSIGNED NAMES AND NUMBERS)
 and DOES 1 through 50,)
 inclusive,)
)
 Defendants.)
 -----)

***CONTAINS HIGHLY CONFIDENTIAL
ATTORNEYS' EYES ONLY SECTION***

VIDEOTAPED DEPOSITION OF PERSON MOST QUALIFIED OF
DOTCONNECTAFRICA TRUST
SOPHIA BEKELE ESHETE
Los Angeles, California
Thursday, December 1, 2016
Volume I

Reported by:
Melissa M. Villagran, RPR, CLR
CSR No. 12543
Job No. 2479429
PAGES 1 - 290

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

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DOTCONNECTAFRICA TRUST,)
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Plaintiff,)
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vs.)No. BC607494
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INTERNET CORPORATION FOR)
ASSIGNED NAMES AND NUMBERS)
and DOES 1 through 50,)
inclusive,)
)
Defendants.)
_____)

Videotaped deposition of PERSON MOST QUALIFIED OF DOTCONNECTAFRICA TRUST, SOPHIA BEKELE ESHETE, Volume I, taken on behalf of Defendants, at 555 Flower Street, Los Angeles, California, beginning at 9:42 and ending at 4:47 p.m. on Thursday, December 1, 2016, before Melissa M. Villagran, RPR, CLR, Certified Shorthand Reporter No. 12543.

1 Los Angeles, California; Thursday, December 1, 2016

2 1:15 p.m.

3

4 SOPHIA BEKELE ESHETE,

5 having been previously duly sworn,

6 was examined and testified as follows:

7

8 EXAMINATION (RESUMED)

9 THE VIDEOGRAPHER: We are back on the record

10 at 1:15 p.m.

01:15:45

11 BY MR. LE VEE:

12 Q We're back from lunch.

13 You understand you -- you are still under

14 oath?

15 A Yes.

01:15:53

16 Q Okay. So you have been working on the

17 concept of a top-level domain known as .Africa for

18 many years, right?

19 A Correct.

20 Q Yes. And it was an idea that you had even as

01:16:13

21 well -- far back as the GNSO work in 2005 to 2007,

22 correct?

23 A Yes.

24 Q Okay. And I assume you think it would be a

25 very useful top-level domain for the continent of

01:16:29

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1 Africa to have?

2 A Yes.

3 Q Okay. And do you expect that it would be
4 well received in Africa? In other words that it
5 would generate a lot of enthusiasm? 01:16:45

6 A Yes.

7 Q Okay. And what would be some of the
8 advantages of -- of the continent having a domain
9 name that was the name of the continent, .Africa?

10 A Several. Obviously we had a -- a "yes to 01:17:02
11 .Africa" campaign detailing out advantages. It's a
12 global awareness campaign that we did, detailing the
13 advantages. One of them is branding Africa's
14 product and services over the Internet, which will
15 allow anybody outside the continent and within the 01:17:29
16 continent to trade or know each other's products,
17 right?

18 The second would be to have a registry. The
19 proposal included to have a registry in country, in
20 the continent. So, for example, our registry is 01:17:44
21 based in Kenya. So instead of the local people
22 paying money for a registry outside the continent,
23 which takes away from -- fights capital flight, we
24 instead have it in the continent.

25 And then third was the proceeds for the 01:18:07

1 .Africa registration. Under the nonprofit we
2 proposed will assist in -- in distributing causes,
3 good causes. For example, we have identified women
4 and youth to be part of the cause that we want to
5 assist with the monies. 01:18:28

6 So basically these are our campaign things
7 and these are -- we think are -- is very much
8 beneficial to the continent.

9 Q Okay. And some of those themes, in
10 particular the branding and so forth, it wouldn't 01:18:42
11 really matter who was operating the TLD. It would
12 still be helpful for the continent to have the brand
13 .Africa?

14 MR. BROWN: Objection; calls for speculation,
15 lacks foundation. 01:18:56

16 Go ahead.

17 THE DEPONENT: Sure, but it just depends who
18 runs it as well.

19 BY MR. LE VEE:

20 Q Understood. 01:18:59

21 And -- and I understand the identity of the
22 operator could have some effect on --

23 A Yeah, in terms of, like, you know, marketing
24 capabilities and influencing capabilities.

25 Q Okay. 01:19:10

1 Q Yes.

2 A They should see it for what it is, right?

3 Q Okay.

4 A And they did say -- in fact, the ICC says
5 that the -- the way it is written, the AUC 02:14:07
6 endorsement, the ZACR endorsement is not sufficient.
7 It should fail.

8 Q Yes. Yes, and they did fail it.

9 A Yeah. So they state that.

10 Q And then they told the AUC to write a second 02:14:17
11 letter and the AUC wrote it, right?

12 A That's when the ICANN intervened in the
13 writing.

14 Q Okay. Now --

15 A I get the picture. 02:14:25

16 Q -- let me ask this and then we'll take the
17 break.

18 You never approached either the AUC or UNECA
19 for an updated letter, correct?

20 A No. 02:14:33

21 Q No, you did not do that?

22 A I did not approach.

23 Q Okay. And the reason is is because you knew
24 that neither UNECA nor the AUC would write a letter
25 on behalf DCA, correct? 02:14:43

1 Q Of the individual governments.

2 A -- countries.

3 Q Of the countries, yes.

4 Or that the panel require ICANN to accept the

5 UNECA letter as the support; correct?

02:55:57

6 A Right.

7 Q Okay. Now, the panel in it's final ruling

8 did allow you to proceed through the remainder of

9 the new gTLD application process, correct?

10 That's the words they used.

02:56:11

11 A Right.

12 Q But they didn't address whether they were

13 granting you a period of no less than 18 months to

14 obtain governmental support as set out in the

15 guidebook, right?

02:56:24

16 They -- they just didn't say anything about

17 that, right?

18 MR. BROWN: Document speaks for itself.

19 BY MR. LE VEE:

20 Q I mean --

02:56:27

21 A They didn't say anything about that. It is

22 mute, muted.

23 Q Well, and they didn't say anything as to

24 whether the -- the requirement was satisfied as a

25 result of the letter from UNECA, correct?

02:56:43

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1 A Can you say that again.

2 Q Yes.

3 The panel did not say that the requirement of
4 geographic support was satisfied by your letter from
5 UNECA? 02:56:59

6 A It is my understanding that ICANN had argued
7 in the IRP that the panel did not address anything
8 to do with endorsement issues. So the panel just
9 left the endorsement issues out.

10 Q Correct. 02:57:16

11 So the panel simply did not address whether
12 it had endorsements.

13 A Good or bad or either way, yeah.

14 Q Right.

15 And -- and so the panel was not saying in its 02:57:23
16 declaration, it just simply did not address whether
17 DCA had or had not passed the requirement of getting
18 the 60 percent support from the continent of Africa?

19 A They just left it mute, I guess.

20 Q Okay. And so you are arguing today that DCA 02:57:42
21 should not have to fulfill the 60 percent
22 requirement, right?

23 A The individual endorsement requirements.

24 Q Right.

25 A What we're arguing is that we be treated the 02:57:55

1 That's -- that's what we asked for --

2 Q Okay.

3 A -- at that time.

4 Q But just to be clear, nothing in the final
5 declaration says that you get to skip the geographic 02:59:22
6 review process, right?

7 A Yes.

8 Q Okay. And so -- and you would not be
9 suggesting, would you, that an application for the
10 registry operator to operate a top-level domain that 02:59:39
11 is the name of a continent not have support of the
12 people of that continent, right?

13 A You mean the government.

14 Q The governments.

15 And you think that's a good thing, right? 02:59:53

16 A Can you rephrase that question.

17 Q I'll rephrase it.

18 Don't you think that it's appropriate that
19 whoever becomes the registry operator for the
20 .Africa top-level domain have support of the 03:00:08
21 governments in Africa?

22 A That is not my requirement. It is ICANN's
23 requirement.

24 Q Yes.

25 A I cannot insinuate that. You know, could be 03:00:15

1 And you knew ICANN had accepted for ZACR the
2 letter from the AUC, that second letter that the AUC
3 had signed?

4 A ICANN, yes.

5 Q Yes. Okay. 03:03:05

6 So you knew that ICANN had accepted the AUC's
7 letter as sufficient for the 60 percent requirement,
8 correct?

9 A For -- for ZACR.

10 Q For -- for ZACR, correct. 03:03:16

11 And ICANN had not yet told you whether your
12 lawyer was sufficient, right?

13 A Or not, yes.

14 Q Correct. Because as a result of the board
15 accepting the GAC's advice that your application not 03:03:31
16 proceed, ICANN had stopped working on your
17 application, right?

18 A Right.

19 Q And so the geographic review names panel
20 never got to finish the work on your application in 03:03:43
21 2013 because they were told to stop?

22 A Right.

23 Q Okay.

24 So you did not know in -- in -- at the time
25 of the IRP whether ICANN was going to accept your 03:03:52

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1 I've said, from individuals that I used to do
2 business with that has supported the initiative.
3 Yeah.

4 Q Okay. But you have not been working with
5 clients since you formed DCA Trust? 03:36:49

6 A Well, depends what you call clients. You
7 mean like individual customers?

8 Q Yes. Like the companies you were mentioning
9 before from Africa or elsewhere that you were
10 installing computer systems or doing the other work 03:37:05
11 you described.

12 A Not under my companies, yeah.

13 Q Okay. So CBS is not an active corporation
14 today?

15 A No, no. 03:37:14

16 Q Okay.

17 Have you ever worked for a -- a registrar, an
18 ICANN-accredited registrar?

19 A No.

20 Q Okay. Have you ever worked for an 03:37:30
21 ICANN-accredited registry?

22 A No.

23 Q Okay.

24 Your application refers to charitable
25 projects in the event you were successful as the 03:37:46

1 I want to ask just a couple general
2 questions.

3 When you applied for .Africa in 2012, you
4 knew that you were not guaranteed the right to
5 operate .Africa, correct? 03:59:32

6 A Well, I didn't think that way.

7 Q So you just hadn't -- you under --

8 A Obviously there is a competition. We -- I
9 understood that.

10 Q Okay. And you understood that there was a 03:59:45
11 chance that some other applicant would -- would
12 ultimately be the applicant selected?

13 A There was a chance?

14 Q Yes.

15 A In fact, with the endorsements in my hand, I 03:59:55
16 thought that we -- we would probably go into
17 contention of some sort. I didn't think we would
18 lose .Africa.

19 Q Okay. If it went into contention, then that
20 would involve an auction; is that right? 04:00:07

21 A Right.

22 Q And it could either be done as a private
23 auction or -- or ICANN-administered auction? Is
24 that your understanding?

25 A Yeah. 04:00:15

1 Q And if -- if it went to an ICANN-administered
2 auction, the -- and let's suppose for the moment
3 there are two entities that both have made it that
4 far -- then the winning bidder would be the one that
5 would operate .Africa, correct? 04:00:32

6 A How about if it's a private auction?

7 Q Still the winning bidder would operate
8 .Africa even if a private auction, right?

9 A Right.

10 Q So either way. If it goes to private or 04:00:42
11 public auction, the winning bidder is the entity
12 that would operate .Africa?

13 A Right.

14 Q And did you also understand that the board of
15 ICANN could decide for whatever reason not to permit 04:00:51
16 anybody to operate .Africa?

17 A No.

18 Q You did not have that understanding?

19 A No. As long as there is -- when you look at
20 the bylaws and the transparent process that's 04:01:11
21 building the new gTLD, we didn't feel like ICANN
22 would come out and say you have no right to operate
23 .Africa.

24 Q Okay. So your understanding was that if a
25 qualified applicant applied for a gTLD, the board 04:01:26

EXHIBIT 2

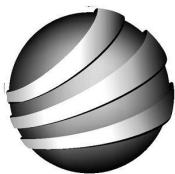
In the Matter Of:

DOTCONNECTAFRICA TRUST vs. INTERNET CORP.

2:16-cv-00862-RGK (JCx)

CHRISTINE WILLETT

October 07, 2016



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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

DOTCONNECTAFRICA TRUST,
Plaintiff,

vs.

CASE NO.
2:16-cv-00862-RGK (JCx)

INTERNET CORPORATION FOR
ASSIGNED NAMES AND NUMBERS,
et al.,

Defendants.
~~~~~

DEPOSITION OF  
CHRISTINE WILLETT

October 7, 2016

9:03 a.m.

11766 Wilshire Boulevard  
Suite 1670  
Los Angeles, California

Dawn Schetne, CSR No. 5140

1 only applications for a geographic name representative  
2 of an entire continent.

3 Q. Is it fair to say, then, there wasn't a .Asia  
4 or a .Europe or a .North America or South America at  
5 that time at least?

6 A. Correct. There were no other geographic names  
7 subject to this 60 percent pool.

8 Q. Did anybody tell you -- who is ICC?

9 A. So the ICC pertaining to this matter is  
10 Interconnect, a consultant who was engaged -- a firm  
11 that was engaged to perform geographic names panel  
12 evaluation work.

13 Q. Do you have an understanding as to why ICANN  
14 uses an outside consultant to do the work as opposed to  
15 doing it internally?

16 A. I do.

17 Q. Why is that?

18 A. As the program was developed in conjunction  
19 with the ICANN community and the applicant guidebook was  
20 written, the community felt it was important that ICANN  
21 staff did not evaluate the applications and make  
22 these -- perform all of the evaluation work ourselves,  
23 that it was the view of the community that it was  
24 important that experts, third-party independent experts,  
25 were leveraged to perform the various types of

1 evaluation.

2 Q. What sort of expertise, to your understanding,  
3 does ICC have in terms of evaluating geographic names?

4 A. Specifically, I do not know.

5 Q. Do you know how ICC was selected to be the  
6 geographic names panel?

7 A. I have a general knowledge on how ICC and other  
8 firms were selected.

9 Q. Give me what you know.

10 A. Okay.

11 Q. You obviously aren't here to testify to what  
12 you don't know, so tell me what you do.

13 A. Again, the identification selection of ICC  
14 predates my tenure at ICANN, but my understanding is  
15 that there was an expression of interest phase in which  
16 ICANN solicited expressions of interest from various  
17 vendors to perform and fulfill the obligations of our  
18 various panels. ICC, the Interconnect, was one of those  
19 firms that applied and expressed interest.

20 Q. Do you know if there were multiple applicants  
21 for the geo panel work?

22 A. Yes, there were.

23 Q. Do you know how many?

24 A. I don't know exactly, but I know that we  
25 engaged two panels, two different firms to divide up the

1 published, give or take?

2 A. I do not.

3 Q. Do you know whether -- back to sort of where we  
4 were in regard to the .Africa issues. Do you know  
5 whether ICC raised the question about what level of  
6 support would be necessary in the letters? To back up,  
7 you said the issue, I think, came to you from staff.  
8 Did you have an understanding the staff was looking at  
9 that issue because ICC was looking at it, or is it just  
10 something that staff came up with on their own? That's  
11 what I'm trying to get to.

12 A. I believe that the panel was asking questions  
13 of staff and looking for guidance from staff.

14 Q. When you say the panel, that would be ICC?

15 A. Yes.

16 MR. LeVEE: There are many panels that are  
17 referenced in the lawsuit, and so just to bear in mind,  
18 unless the context is clear, we should refer to the ICC.

19 THE WITNESS: Sure.

20 BY MR. BROWN:

21 Q. And I'll do my best to catch it and clarify it,  
22 but I might miss it as well. There are lots of  
23 acronyms, lots of panels, lots of groups. It's a little  
24 bit complicated.

25 Did you have any direct communications with ICC

1 yourself about whether any of these regional authorities  
2 like AUC or UNECA would be acceptable as an endorser?

3 MR. LeVEE: At any period of time?

4 MR. BROWN: Sure, at any period of time.

5 THE WITNESS: I don't recall any direct  
6 communication.

7 BY MR. BROWN:

8 Q. Who were you talking to within ICANN about the  
9 level of support that would be required for one of these  
10 regional gTLDs?

11 A. So my staff, Larisa Gurnick, was coordinating  
12 the geographic names panel evaluation. And the lawyers,  
13 the legal team.

14 Q. And which members of the legal team were you  
15 talking to at that time about this particular issue?

16 A. That would be Amy Stathos, Dan Halloran, and  
17 John Jeffrey.

18 Q. Was there a decision made at around the time of  
19 October or November, 2012, within ICANN as to whether  
20 the regional authorities like AUC and UNECA would be  
21 considered sufficient for meeting the 60 percent  
22 requirement?

23 A. So --

24 MR. LeVEE: I know you've seen documents on  
25 this.

1 ZACR or the AUC continued to ask for more assistance  
2 beyond the template that was in the applicant guidebook.

3 Q. Are you aware of any other circumstance where  
4 ICANN prepared a template letter for an applicant for an  
5 endorsement?

6 A. I don't recall specifically. It's something we  
7 would have done if anyone else had asked. The sample  
8 letter for the geographic names panel letter of support,  
9 I don't recall specifically, but there were other  
10 letters. Like a letter of credit we provided examples.  
11 Adequate letters of credit. We provided other examples  
12 to other applicants in other situations when they were  
13 challenged in providing adequate documentation.

14 Q. Do you know why the template letter in the  
15 applicant guidebook was not sufficient for ZACR or AUC  
16 to prepare an endorsement letter?

17 A. I don't.

18 Q. Do you recall anything else that came up  
19 about -- to your attention at least -- in regard to  
20 ZACR's endorsement letter from the AUC?

21 A. Just that they asked for it, and as you stated,  
22 Trang drafted such.

23 Q. Let's take a short break.

24 A. Okay.

25 MR. LeVEE: Okay.

1 MR. LeVEE: The interrogatory responses that  
2 DCA provided that we sent to you.

3 THE WITNESS: Yes.

4 BY MR. BROWN:

5 Q. Other than hearing about it in connection with  
6 preparation for your deposition, is it fair to say that  
7 you had not heard about that before?

8 A. Yes, that's fair.

9 Q. Does ICANN have any policies and procedures  
10 about whether an applicant who has assigned certain  
11 rights to another entity -- whether the beneficiary of  
12 the assignment has to go through any of these other  
13 qualifications like the background screening?

14 MR. LeVEE: Objection. Vague.

15 THE WITNESS: So the applicants may or may not  
16 name in their applications various other entities that  
17 they assign rights to or that are going to perform  
18 services or perform functions on their behalf. The only  
19 parties that we -- to your question, we don't evaluate  
20 and have a specific procedure for evaluating those other  
21 referenced parties.

22 BY MR. BROWN:

23 Q. Are you aware of other circumstances where an  
24 applicant has assigned certain rights to other entities  
25 as part of its application process?

1 A. Yes.

2 Q. Can you give me some examples?

3 A. There are various community applicants that say  
4 they're going to operate on behalf of other entities or  
5 that they're going to do something specific for those  
6 entities. There's also applicants that say that --  
7 identify that they're going to assign the obligations  
8 under the registry agreement to another entity, like an  
9 outsourced vendor, to perform certain functions on their  
10 behalf.

11 Q. Do you have any -- have you ever had any  
12 discussions about whether AUC could have applied  
13 directly for the .Africa gTLD?

14 A. Just yesterday.

15 Q. Do you have a view as to whether there was any  
16 reason why AUC could not apply directly for the .Africa  
17 gTLD?

18 A. I think AUC could have. There was nothing in  
19 the guidebook prohibiting them from applying.

20 Q. With regard to the financial evaluation, could  
21 you walk me through what that entails?

22 A. Sure. So the criteria for financial evaluation  
23 are in the applicant guidebook. There are a number of  
24 questions specific to the financial wherewithal of the  
25 applicant. Some of those are public questions. The



1 reviewing the clarifying questions for .Africa?

2 A. So we had multiple staff responsible for  
3 reviewing clarifying questions. I don't know  
4 specifically who it would have been for .Africa.

5 Q. Who were the people it could have been? Can  
6 you give me the list?

7 A. Trang Nguyen, Yuko Green. Y-u-k-o. If we're  
8 talking about DCA's application, initial evaluation  
9 against geographic names panel evaluation in 2015, that  
10 would have been likely Russ Weinstein or Cristina  
11 Flores, C-r-i-s-t-i-n-a F-l-o-r-e-s.

12 Q. After the IRP panel issued a ruling on DCA, the  
13 board took action with respect to DCA's application;  
14 correct?

15 A. Yes.

16 Q. And what is your understanding of that action?

17 A. My understanding is that they accepted the IRP  
18 panel's declaration and instructed staff to resume the  
19 evaluation of DCA's application where it had been  
20 suspended.

21 Q. Was there any discussion that you're aware of  
22 within ICANN, either at the board level or at the staff  
23 level, about where in the process the DCA application  
24 should be placed after the IRP panel ruling?

25 A. I believe that staff read the -- I recall that

1 we read the board declaration and discussed that it was  
2 starting -- continuing the evaluation from the point it  
3 had previously stopped, rather than restarting.

4 Q. Did you -- do you attend board meetings?

5 A. Occasionally.

6 Q. Do you recall attending the board meeting where  
7 the decision on .Africa post IRP was made?

8 A. When they adopted the IRP declaration?

9 Q. Correct.

10 A. I don't recall.

11 Q. Was there any discussion at the staff level as  
12 to whether .Africa should be placed at a point after the  
13 geographic names review?

14 A. No.

15 Q. When -- how was it communicated to the ICC that  
16 the .Africa application would be restarted in the  
17 process, or its review would be restarted?

18 A. I believe we emailed them, emailed Mark  
19 McFadden at the ICC, to tell them that we needed them to  
20 resume their geographic names evaluation.

21 Q. Did anyone from ICANN and from the ICANN staff,  
22 to your knowledge, have a conversation with Mr. McFadden  
23 or anybody else at ICC around that time period where the  
24 review of DCA was going to start back again about the  
25 application or the application process for DCA's

1 how likely it was that DCA would pass the geographic  
2 names evaluation in 2015?

3 A. Certainly, yes.

4 Q. You said certainly, yes?

5 A. Yes.

6 Q. Who did you discuss that with?

7 A. With our legal staff. I'm sure I discussed it  
8 with my staff as well.

9 Q. What did you discuss with your staff about the  
10 likelihood of DCA passing geographic names evaluation in  
11 2015?

12 A. I think we discussed that they would either  
13 need to get an adequate letter from UNECA or AUC or that  
14 they'd have to get 36 other individual letters, and we  
15 expected that -- actually, we were expecting that we  
16 would get a request for a lengthy extension for that  
17 initial evaluation period in 2015. We expected DCA to  
18 have requested additional time to collect such letters.

19 Q. Did you understand DCA to request additional  
20 time?

21 A. My understanding is that no, they did not.

22 Q. Did you all discuss whether additional time  
23 would have been granted had it been asked for?

24 A. I'm sure we did.

25 Q. Did you reach a conclusion?

1           A. I believe we expected that we would have  
2 granted additional time. That was commensurate with the  
3 time that had been granted to other applicants similarly  
4 situated.

5           Q. Did you -- at or before that time, had you  
6 reviewed the existing AUC or UNECA endorsement letters  
7 that DCA had?

8           A. I had seen them.

9           Q. Based on your knowledge of ICC's evaluation and  
10 the evaluation of the other geographic review panel, did  
11 you have a reason to believe that those letters were not  
12 going to be found sufficient?

13          A. Given that almost all of the letters of support  
14 got clarifying questions, I expected that DCA's letters  
15 would receive clarifying questions and would have some  
16 deficiency.

17          Q. Were there any particular deficiencies that you  
18 had noted at that time?

19          A. Well, by 2015, as we had discussed earlier,  
20 those letters were issued -- two of the letters at least  
21 were issued in 2008 and 2009, I recall, so by 2015 they  
22 were even older. The panel would have had to verify  
23 over even a longer period. We expected that that  
24 verification process might have been more challenging.

25          Q. Any other particular challenges or concerns

1 that you had identified with regard to the existing  
2 letters that DCA had?

3 A. No.

4 Q. At some point DCA's application was determined  
5 insufficient for the initial review period; correct?

6 A. Correct. That was what we call -- they did not  
7 pass initial evaluation, so we said that they were  
8 eligible for extended evaluation.

9 Q. To your understanding, what was the basis for  
10 DCA's failure under the initial evaluation?

11 A. So the only aspect of the initial evaluation  
12 report which did not pass was the geographic names  
13 evaluation. That was the reason for not passing initial  
14 evaluation.

15 Q. It's fair, then, to assume that ICC determined  
16 that the existing AUC letter and existing UNECA letter  
17 were not sufficient; is that right?

18 A. Yes, that's correct. They issued clarifying  
19 questions, and DCA did not provide alternate letters of  
20 support.

21 Q. Did you ever -- did you come to have an  
22 understanding as to what specific defects ICC found in  
23 the AUC letter?

24 A. I don't recall specifically. I'd have to look  
25 at the CQs.

1 Government.

2 Q. I know there's a reference in the applicant  
3 guidebook. Let's actually look at that. Here you go.

4 A. It's a big book.

5 MR. BROWN: Here's an extra copy for you. It's  
6 easier than trying to find the other one.

7 Q. Are you familiar with that document?

8 A. The applicant guidebook, yes.

9 MR. LeVEE: Just for the record, this is the  
10 version dated June 4, 2012.

11 BY MR. BROWN:

12 Q. You might be better at finding this than I am.  
13 Where's the section that deals with endorsements, do you  
14 know? I have it marked, but I don't have it marked in  
15 this version, sadly.

16 A. Module 2 had a lot of the evaluation  
17 procedures. Geographic names review starts on  
18 page 2-16, so it's Exhibit 3, page 169.

19 Q. If you'd look at page 2-20. If you'd look at  
20 the paragraph that starts: It is also possible.

21 A. Uh-huh.

22 Q. It says: It is also possible that a government  
23 may withdraw its support for an application at a later  
24 time, including after the new gTLD has been delegated,  
25 if the registry operator has deviated from the

1 conditions of original support or nonobjection.

2 Do you see that?

3 A. Yes.

4 Q. The other situation you were talking about, the  
5 Moroccan one, do you know whether the registry operator  
6 deviated from any conditions of support or nonobjection  
7 in the original letter?

8 A. So the applicant is not the registry operator.  
9 They are not a contracted party, and they're not  
10 delegated. We would not -- they are still an applicant.

11 Q. So your view would be that -- your view would  
12 be that at the application stage the "if" clause that  
13 relates to this sentence doesn't apply; it only applies  
14 to registry operators?

15 A. My interpretation would be that that's one  
16 reason the government may choose to withdraw its  
17 support, but I expect it could be for any multitude of  
18 reasons.

19 Q. Other than what's in the guidebook, are there  
20 any policies and procedures that you're aware of at  
21 either ICANN or at ICC about what happens when -- in  
22 situations where a governmental body withdraws its  
23 support at a later point in time?

24 A. I'm not aware of it off the top of my head. I  
25 would suppose it would be based on any language in the

# **EXHIBIT 3**



|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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| <p style="text-align: right;">Page 1</p> <p>1 UNITED STATES DISTRICT COURT<br/>                 2 CENTRAL DISTRICT OF CALIFORNIA<br/>                 3 WESTERN DIVISION<br/>                 4<br/>                 5 DOTCONNECTAFRICA TRUST,<br/>                 6 Plaintiff,<br/>                 7 vs. CASE NO.<br/>                 2:16-cv-00862-RGK (JCx)<br/>                 8 INTERNET CORPORATION FOR<br/>                 ASSIGNED NAMES AND NUMBERS,<br/>                 9 et al.,<br/>                 10 Defendants.<br/>                 -----<br/>                 11<br/>                 12<br/>                 13<br/>                 14<br/>                 15 DEPOSITION OF<br/>                 16 AKRAM ATALLAH<br/>                 17<br/>                 18 October 5, 2016<br/>                 19 10:09 a.m.<br/>                 20<br/>                 21 11766 Wilshire Boulevard<br/>                 Suite 1670<br/>                 22 Los Angeles, California<br/>                 23<br/>                 24 Dawn Schetne, CSR No. 5140<br/>                 25</p>                                                                                                                                                                                                    | <p style="text-align: right;">Page 3</p> <p>1 INDEX OF EXAMINATION<br/>                 2<br/>                 3 WITNESS: AKRAM ATALLAH<br/>                 4 EXAMINATION PAGE<br/>                 5 By Mr. Brown 6<br/>                 6 By Mr. LeVee 191<br/>                 7<br/>                 8<br/>                 9<br/>                 10 INFORMATION REQUESTED<br/>                 11 PAGE LINE<br/>                 12 103 7<br/>                 13<br/>                 14<br/>                 15<br/>                 16<br/>                 17<br/>                 18<br/>                 19<br/>                 20<br/>                 21<br/>                 22<br/>                 23<br/>                 24<br/>                 25</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <p style="text-align: right;">Page 2</p> <p>1 APPEARANCES OF COUNSEL<br/>                 2<br/>                 3 For the Plaintiff:<br/>                 4 BROWN, NERI, SMITH &amp; KAHN LLP<br/>                 ETHAN J. BROWN, ESQ.<br/>                 5 11766 Wilshire Boulevard, Suite 1670<br/>                 Los Angeles, California 90025<br/>                 6 310.593.9890<br/>                 310.593.9980 Fax<br/>                 7 ethan@bnsklaw.com<br/>                 8<br/>                 9 For the Defendant:<br/>                 10 JONES DAY<br/>                 JEFFREY A. LeVEE, ESQ.<br/>                 555 South Flower Street, Fiftieth Floor<br/>                 11 Los Angeles, California 90071-2300<br/>                 213.489.3939<br/>                 12 213.243.2539 Fax<br/>                 jlevee@jonesday.com<br/>                 13<br/>                 14 Also Present:<br/>                 15 Amy Stathos (Appeared Telephonically)<br/>                 Sophia Bekele (Appeared Telephonically)<br/>                 16<br/>                 17<br/>                 18<br/>                 19<br/>                 20<br/>                 21<br/>                 22<br/>                 23<br/>                 24<br/>                 25</p> | <p style="text-align: right;">Page 4</p> <p>1 INDEX TO EXHIBITS<br/>                 2<br/>                 3 Exhibit Description Page<br/>                 4 1 Second amended notice of<br/>                 deposition of Defendant<br/>                 Internet Corporation For<br/>                 5 Assigned Names and Numbers<br/>                 Rule 30(b)(6)<br/>                 6 2 Two emails dated 10-25-12,<br/>                 with attachment 37<br/>                 7<br/>                 8 3 Registry agreement 68<br/>                 9<br/>                 10 4 gTLD applicant guidebook 72<br/>                 11<br/>                 12 5 Series of emails dated 106<br/>                 10-22-15<br/>                 13 6 Email dated 8-1-15 to<br/>                 Board Members from<br/>                 Mike Silber, with attachment 111<br/>                 14 7 Email dated 10-24-11 to<br/>                 africann@aftrinic.net from<br/>                 Esam Abulkhirat, with<br/>                 attachment 123<br/>                 15<br/>                 16 8 New gTLD application 126<br/>                 17<br/>                 18 9 Series of emails dated 135<br/>                 11-12-12 and 12-11-12<br/>                 19 10 Email dated 7-13-15 to ICANN 149<br/>                 Board from Tarek Kamel,<br/>                 with attachment<br/>                 20 11 Email dated 8-15-15 to ICANN 160<br/>                 Board; Transition Caucus from<br/>                 Chris Disspain<br/>                 21 12 Email dated 7-13-15 to ICANN 162<br/>                 Board from Bruce Tonkin<br/>                 22<br/>                 23 13 Series of emails dated 7-11-15 164<br/>                 24<br/>                 25</p> |

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1 official member of those committees as well?  
2 A. Well, the official members are board members,  
3 but they're supported by staff, and there's a senior  
4 staff that supports the committees. I'm not one of  
5 those.  
6 Q. Do you attend board meetings?  
7 A. Yes.  
8 Q. All of them?  
9 A. Yes.  
10 Q. What was your -- I think you told me that as  
11 COO, you weren't involved in creation of the gTLD  
12 program, but you were involved in the implementation.  
13 Did I get that right?  
14 A. Yes.  
15 Q. So what -- when you say implementation, can you  
16 elaborate on that in terms of what you mean in terms of  
17 what your responsibilities were?  
18 A. Yes. We had the team that was developing -- so  
19 there are two parts to the new gTLD program. One part  
20 is developing the guidebook, which was done with the  
21 community. And then the other part was implementing the  
22 guidebook, which was done by staff, and included in that  
23 was developing the tools and the processes and the  
24 documentation for how to handle the different parts of  
25 the new gTLD program. Contracting different parties,

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1 making sure that they have their role and  
2 responsibilities understood.  
3 Q. Okay. Is it fair to say that your involvement  
4 was with the latter part? In other words, not the  
5 creation of the guidebook, but the processes and the  
6 implementation and the contracting.  
7 A. Exactly.  
8 Q. Okay. Could you walk me through just at a high  
9 level what the process is for an applicant to go through  
10 the new gTLD program? What happens first, and then kind  
11 of how does the process work through?  
12 MR. LeVEE: That's a really open-ended  
13 question. I mean, you know how long the guidebook is.  
14 BY MR. BROWN:  
15 Q. I'm just looking for a very high level, in  
16 terms of what the general process is.  
17 A. Sure.  
18 MR. LeVEE: Go ahead.  
19 THE WITNESS: So you have to fill out an  
20 application and pay a fee. After that there -- so there  
21 was a period during which you could apply. When the  
22 period closes, we announce all of the applications so  
23 that people do not know what other people are applying  
24 for. So after that window of application is open, we  
25 announce all of the different applications.

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1 Then depending on the type of applications that  
2 was applied, it goes through some different sets of  
3 processes to be evaluated. But what's common to all the  
4 applications is going through, like, technical and  
5 financial evaluation. There is background checks that  
6 happen, and also there are other processes that we go  
7 through. There is also a set of objections that people  
8 from outside of the applicants could object to, as well  
9 as applicants actually. They could object to a  
10 particular application. Then there are, like I said,  
11 categories of application. So if you are a community  
12 application or if you are a geo application or if you're  
13 a -- you know, there are different sorts of applications  
14 that go through specific evaluations that others do not  
15 go through. If you pass all of this and you pass your  
16 initial evaluation, then you move into what we call  
17 contracting, and then you move after contracting to  
18 delegation.  
19 Now, if you are in a contention set, that's a  
20 different issue. A contention set means two  
21 applications that applied for the same string. They can  
22 resolve this contention on their own, or if they  
23 haven't, eventually they get into what is called a --  
24 well, an auction that is done by ICANN.  
25 And one more thing in the process. I would

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1 say -- other than those -- and then there is also things  
2 that delay an application, like accountability  
3 mechanisms where people object to something that staff  
4 did or board decisions or so on, and these also happen  
5 within the program, and they could delay an application  
6 from moving forward.  
7 And I'm pretty sure I covered pretty much the  
8 big picture you asked for.  
9 BY MR. BROWN:  
10 Q. Thank you. I appreciate that.  
11 You understand we're here today about the  
12 applications related to .Africa; correct?  
13 A. Uh-huh.  
14 MR. LeVEE: You need to answer audibly.  
15 THE WITNESS: Yes.  
16 BY MR. BROWN:  
17 Q. And that's a geographic gTLD? Is that how you  
18 would refer to .Africa?  
19 A. Yes.  
20 Q. And for the geographic gTLDs, what approval  
21 processes do those specific gTLDs have to go through?  
22 A. So other than the main processes that all of  
23 the other gTLD -- other applicants have to go through, a  
24 geo application has to go through the geographical --  
25 well, actually, let me correct this. All of the

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1 A. Yes.  
2 Q. That's fine. Are you aware of any other  
3 circumstances similar to this where an applicant has  
4 assigned certain of its rights, if it were to get them,  
5 to another entity?  
6 A. Not in particular, but a lot of the cities that  
7 applied for TLDs have similar obligations to the city or  
8 the municipality.  
9 Q. So an applicant would then have --  
10 A. Yeah.  
11 Q. -- an obligation to the city?  
12 A. Yes.  
13 Q. So a city might have more of a professional  
14 registry that submits an application, but then they have  
15 a contractual relationship with that city?  
16 A. Yes.  
17 Q. Do you know if ICANN has -- in those sort of  
18 situations where there's an applicant who's connected to  
19 a government entity, do you know if there's specific  
20 rules that apply in that circumstance? I appreciate you  
21 may not know what those rules are, but do you know just  
22 in general if there's published rules about that sort of  
23 situation?  
24 A. I'm not aware.  
25 Q. Is Ms. Willett the person to ask about that as

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1 well?  
2 A. Probably.  
3 Q. Okay. You're aware, I take it, that the AUC  
4 provided a letter of support for ZACR in ZACR's  
5 application; is that right?  
6 A. Yes.  
7 Q. Have you actually read that letter?  
8 A. Yesterday I scanned it.  
9 Q. Before yesterday, had you ever seen it before?  
10 A. I don't think so.  
11 Q. Do you know who drafted that letter?  
12 A. No.  
13 Q. Did you ask anybody who drafted the letter?  
14 A. No.  
15 Q. Did you ever hear that ICANN participated in  
16 the preparation of that letter?  
17 A. I'm aware that we provided them with a template  
18 that they could use.  
19 Q. Is there -- was there a standard form template  
20 at the time that ICANN used or suggested people use for  
21 endorsement letters?  
22 A. I'm not aware of one.  
23 Q. How did the template come about?  
24 A. I think one of our staff members provided  
25 the -- developed a template and provided it.

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1 Q. Was a template developed specifically for AUC,  
2 or is it something that already existed?  
3 A. I think --  
4 MR. LeVEE: Don't guess, please. If you know,  
5 then he's entitled to your knowledge.  
6 THE WITNESS: Okay. So we were being asked too  
7 many questions on how should the letter look like, what  
8 should the letter have, what is it that we're looking  
9 for, so the decision was made to give them a template  
10 that they could use.  
11 BY MR. BROWN:  
12 Q. And when you say you were getting too many  
13 questions, were you getting too many questions from AUC  
14 specifically or ZACR specifically, or were you just  
15 getting inundated with questions by lots of different  
16 applications for lots of different programs and gTLDs?  
17 A. No, it was ZACR in particular.  
18 Q. Do you know who at ZACR was asking the  
19 questions?  
20 A. No.  
21 Q. Do you know who they were asking the questions  
22 of?  
23 A. No.  
24 Q. Do you know who would know those things?  
25 A. I think Ms. Willett would probably be able to

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1 answer that, if anybody can answer.  
2 Q. Do you know what staff member developed the  
3 template?  
4 A. Yes. I think it's Trang Nguyen.  
5 MR. LeVEE: Spell that for the reporter.  
6 THE WITNESS: T-r-a-n-g N-g-u-y-e-n.  
7 BY MR. BROWN:  
8 Q. Do you know any other circumstance in which  
9 ICANN provided a template endorsement letter for any  
10 other applicant?  
11 A. I'm not aware of anyone else in the geo, but  
12 who provided the template letters in the LOI, letter of  
13 credit.  
14 Q. When you say letter of credit, is that for  
15 .LOC?  
16 A. No.  
17 Q. I'm trying to figure out -- what's the letter  
18 of credit?  
19 A. A registry needs to provide a letter of  
20 credit --  
21 Q. Oh, I understand.  
22 A. -- in case they have a problem and we have to  
23 bring another registry in place to help them perform,  
24 that you can keep the registry up and running. We need  
25 to have a letter of credit to pay those fees.

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1 Q. So what you're saying is you didn't provide an  
2 endorsement template, but you provided a letter of  
3 credit template?  
4 A. Yes.  
5 Q. All right. Now it's sinking in. Thank you.  
6 A. I mean, our job was to actually make sure that  
7 the applicants meet the requirements of the program, and  
8 we didn't want to actually fail them on ticky-tack  
9 issues, you know. If they failed, it should be on the  
10 actual obligations that they should meet, and so the  
11 letter was viewed as just a tool. Getting the approval  
12 was the challenge here. Or getting the recommendation  
13 was the challenge. So that's why we were okay providing  
14 them with a template.  
15 Q. Did you offer the template endorsement letter  
16 to any other applicants?  
17 A. Nobody asked, but if they -- not only in this  
18 particular case, but if anybody asked us for a letter or  
19 how we would like to see things, we did provide them  
20 with that information. CQs were part of that. I mean,  
21 the clarifying questions were part of that as well.  
22 It's to help them figure out how to put their  
23 information for us.  
24 Q. I'm going to ask you again. Not to be  
25 difficult, but I just want to make sure I understand it.

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1 I think what you're telling me is on the endorsement  
2 letter template, that you don't have any knowledge of  
3 actually providing that to anyone else, but you're  
4 saying if somebody asked hypothetically, you would have  
5 provided it; is that correct?  
6 A. Yes.  
7 Q. And you're telling me that there were templates  
8 of other things that you did provide to other people  
9 when they asked?  
10 A. Yes.  
11 Q. But those did not include template endorsement  
12 letters?  
13 A. Yes.  
14 Q. And it's also the case that you didn't make --  
15 you didn't make any of these templates available to all  
16 applicants on the website or anything like that? You  
17 didn't make them publicly available; is that right?  
18 A. So when something was asked for multiple times,  
19 then we would post it and make it available on the  
20 website. Putting something on the website takes time  
21 and effort, so if multiple people are asking and it  
22 becomes easier to put it on the website than to give it  
23 to them one by one, we did that.  
24 Q. Would it be the case, then, as far as you're  
25 aware, there weren't multiple requests for a template

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1 related to endorsements, so you never put that on the  
2 website? Is that right?  
3 A. Yes.  
4 Q. I think we have been going a little bit over an  
5 hour, so let's take a five- or 10-minute break.  
6 MR. LeVEE: Good idea.  
7 (Recess.)  
8 BY MR. BROWN:  
9 Q. Do you know anything about an ombudsman  
10 complaint that was made by DCA? Is that something  
11 you're familiar with?  
12 A. No.  
13 Q. Let me just -- I'm going to mark this. If you  
14 don't know anything about it, we'll just move on. I'll  
15 mark this as Exhibit 9.  
16 (Exhibit 9 was marked.)  
17 BY MR. BROWN:  
18 Q. Is this something you're familiar with at all?  
19 A. No, not really. I mean, I really don't recall.  
20 Q. Okay.  
21 A. And I think -- I mean, the ombudsman stuff is  
22 confidential, so unless I was needed, you know, I  
23 wouldn't be involved.  
24 Q. You weren't ordinarily involved in those --  
25 A. Yeah.

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1 Q. -- unless your conduct was at issue or they  
2 needed information from you?  
3 A. Yes.  
4 Q. Okay.  
5 A. Or if I happened to be at the board meeting,  
6 the board of governors committee meeting where this is  
7 discussed.  
8 Q. Sure. Do you know if anybody at ICANN asked  
9 AUC directly about either their initial endorsement of  
10 DCA or their withdrawal -- or their purported withdrawal  
11 of their endorsement of DCA?  
12 A. No, I'm not aware of that.  
13 Q. You don't know whether ICANN called them up and  
14 said, hey, we've got an endorsement, we've got a  
15 withdrawal, what's up, what's going on with you guys?  
16 A. No.  
17 Q. Nobody did that, as far as you know?  
18 A. No.  
19 Q. Okay.  
20 A. It's also important to know that a single  
21 country could endorse two applications.  
22 Q. A single could or could not?  
23 A. They can.  
24 Q. Can. Okay.  
25 A. So it wouldn't surprise us if they did.