

EXHIBIT A

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 12/22/16

DEPT. 53

HONORABLE HOWARD L. HALM

JUDGE

S. SMYTHE

DEPUTY CLERK

HONORABLE
1

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

F. RODRIGUEZ, C.A.

Deputy Sheriff

S. DORN, CSR #11387

Reporter

8:29 am

BC607494

Plaintiff	BROWN, HERI, SMITH & KHAN
Counsel	BY: ETHAN J. BROWN and KETE BARNE\$
Defendant	JONES DAY
Counsel	BY: JEFFREY A. LeVEE ✓ and ERIN L. BURKE

DOTCONNECTAFRICA TRUST
VS.
INTERNET CORPORATION FOR
ASSIGNED NAMES AND NUMBERS

170.6 JUDGE KWAN BY DEFENDANT

NATURE OF PROCEEDINGS:

ALSO APPEARING:

KESSELMAN BRANTLY STOCKINGER
BY: DAVID W. KESSELMAN
and AMY T. BRANTLY

**MOTION OF PLAINTIFF DOTCONNECTAFRICA TRUST,
FOR PRELIMINARY INJUNCTION**

The motion of plaintiff DotConnectAfrica Trust for a Preliminary Injunction comes on for hearing.

The plaintiff is seeking to enjoin defendant Internet Corporation for Assigned Names and Numbers (ICANN) from issuing the .Africa generic top level domain (gTLD) until this case has been resolved.

The matter is argued at length and stands submitted.

Note that the court advised counsel that he was lacking exhibit F to the declaration of Mokgabudi Lucky Masilela, with its summary of costs, which was conditionally placed under seal by prior order of court.

A copy was provided by the intervenor's counsel, and will be returned to counsel upon service of the court's ruling.

MINUTES ENTERED 12/22/16 COUNTY CLERK
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9107787771

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 12/22/16

DEPT. 53

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INTERNET CORPORATION FOR
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Plaintiff BROWN, HERI, SMITH & KHAN
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and KETE BARNES
Defendant JONES DAY
Counsel BY: JEFFREY A. LeVEE
and ERIN L. BURKE

170.6 JUDGE KWAN BY DEFENDANT

NATURE OF PROCEEDINGS:

The court sets this matter for a case management conference on 1-23-17, 8:30 a.m., this department.

The court intends to set the matter for trial at that time, and asks that counsel begin checking their calendars for mutually agreeable dates.

Case Management Statements must be submitted before the conference.

LATER: The plaintiff's motion for the imposition of a Preliminary Injunction is denied, based on the reasoning expressed in the oral and written arguments of defense counsel.

Further, the court has considered the unopposed application of the defendant to file exhibit F to the Masilela declaration under seal, and it is so-ordered.

Clerk to give notice.

CLERK'S CERTIFICATE OF MAILING

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the minute order dated 12-22-16 upon all parties/counsel named below by placing the document for collection and mailing so as to

MINUTES ENTERED
12/22/16
COUNTY CLERK

9107707771

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 12/22/16

DEPT. 53

HONORABLE HOWARD L. HALM

JUDGE

S. SMYTHE

DEPUTY CLERK

HONORABLE
1

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

F. RODRIGUEZ, C.A.

Deputy Sheriff

S. DORN, CSR #11387

Reporter

8:29 am

BC607494

DOTCONNECTAFRICA TRUST
VS.
INTERNET CORPORATION FOR
ASSIGNED NAMES AND NUMBERS

Plaintiff BROWN, HERI, SMITH & KHAN
Counsel BY: ETHAN J. BROWN
and KETE BARNES
Defendant JONES DAY
Counsel BY: JEFFREY A. LeVEE
and ERIN L. BURKE

170.6 JUDGE KWAN BY DEFENDANT

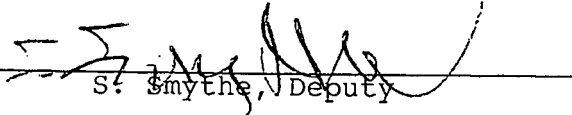
NATURE OF PROCEEDINGS:

cause it to be deposited in the United States mail at the courthouse in Los Angeles, California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

Dated: 12-22-16

Sherri R. Carter, Executive Officer/Clerk

By:


S. Smythe, Deputy

Brown, Neri, Smith & Khan
Attn.: Ethan J. Brown, Esq.
11766 Wilshire Blvd., #1670
Los Angeles, Calif. 90025

Jones Day
Attn.: Jeffrey A. LeVee, Esq.
555 S. Flower St., 50th Floor
Los Angeles, Calif. 90071-2300

MINUTES ENTERED
12/22/16
COUNTY CLERK

9107187771

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 12/22/16

DEPT. 53

HONORABLE HOWARD L. HALM

JUDGE

S. SMYTHE

DEPUTY CLERK

HONORABLE
1

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

F. RODRIGUEZ, C.A.

Deputy Sheriff

S. DORN, CSR #11387

Reporter

8:29 am

BC607494

DOTCONNECTAFRICA TRUST
VS.
INTERNET CORPORATION FOR
ASSIGNED NAMES AND NUMBERS

170.6 JUDGE KWAN BY DEFENDANT

Plaintiff BROWN, HERI, SMITH & KHAN
Counsel BY: ETHAN J. BROWN
and KETE BARNES
Defendant JONES DAY
Counsel BY: JEFFREY A. LeVEE
and ERIN L. BURKE

NATURE OF PROCEEDINGS:

Kesselman Brantly Stockinger LLP
Attn.: David W. Kesselman, Esq.
1230 Rosecrans Ave., #690
Manhattan Beach, Calif. 90266

918776771

MINUTES ENTERED
12/22/16
COUNTY CLERK

EXHIBIT B



DCA v. ICANN - Notice of Ex Parte Application for Temporary Restraining Order
Kete Barnes <kete@bnsklaw.com>

to:

Jeffrey LeVee, David Kesselman

01/03/2017 09:49 AM

Cc:

Rachel Gezerseh, "cswasserstein@jonesday.com", Amy Brantly, Sara Colón, Ethan Brown
Hide Details

From: Kete Barnes <kete@bnsklaw.com> Sort List...

To: Jeffrey LeVee <jleee@JonesDay.com>, David Kesselman <dkesselman@kbslaw.com>

Cc: Rachel Gezerseh <rgezerseh@jonesday.com>, "cswasserstein@jonesday.com"
<cswasserstein@jonesday.com>, Amy Brantly <abrantly@kbslaw.com>, Sara Colón
<sara@bnsklaw.com>, Ethan Brown <ethan@bnsklaw.com>

Counsel,

Please take notice that tomorrow, January 4, 2017, at 8:30 a.m., or as soon thereafter as may be heard, in Department 53 of Stanley Mosk Courthouse, Plaintiff DotConnectAfrica Trust ("DCA") will apply *ex parte* for a temporary restraining order enjoining Defendant ICANN from taking any further action regarding the delegation of the .Africa gTLD. DCA's application is based on its second and fifth causes of action for intentional misrepresentation and unfair competition, respectively. DCA applies *ex parte* because ICANN will not refrain from delegating the .Africa gTLD until a regularly noticed motion for a preliminary injunction can be heard, and DCA will suffer irreparable harm if the domain is delegated prior to the resolution of this case.

Please let me know if you oppose.

Sincerely,

Kete Barnes

Kete Barnes – *Associate*

Direct: (310) 905-3495

BROWN NERI SMITH & KHAN LLP

11766 Wilshire Blvd., Ste. 1670, Los Angeles, CA 90025



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EXHIBIT C

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES
DEPARTMENT 53 HON. HOWARD L. HALM, JUDGE

DOTCONNECTAFRICA TRUST, A MAURITIUS)
CHARITABLE TRUST,)
)
PLAINTIFF,)
)
VS.) NO. BC607494
)
INTERNET CORPORATION FOR ASSIGNED)
NAMES AND NUMBERS, A CALIFORNIA)
CORPORATION; ZA CENTRAL REGISTRY, A)
SOUTH AFRICAN NON-PROFIT COMPANY;)
AND DOES 1 THROUGH 50, INCLUSIVE,)
)
DEFENDANTS.)
_____)

REPORTER'S TRANSCRIPT OF PROCEEDINGS
DECEMBER 22, 2016

APPEARANCES:
FOR THE PLAINTIFF: BROWN, NERI, SMITH & KHAN, LLP
BY: ETHAN BROWN, ESQ.
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ETHAN@BNSKLAW.COM
E.KETE@BNSKLAW.COM
FOR THE DEFENDANT: JONES DAY
BY: JEFFREY A. LEVEE, ESQ.
ERIN L. BURKE, ESQ.
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JLEVEE@JONESDAY.COM

(ADDITIONAL APPEARANCES ON THE NEXT PAGE)

SHAWNDA R. DORN, CSR NO. 11387, RPR, CCRR, CLR
OFFICIAL REPORTER PRO TEMPORE

1 ACTION 9, AND WE CAN'T WIN CAUSE OF ACTION 9. I THINK
2 THAT IS A REALLY HYPERTECHNICAL AND OVERREACHING READ OF
3 WHAT CAUSE OF ACTION NO. 9 DOES.

4 CAUSE OF ACTION NO. 9 COMES ON THE HEELS OF
5 ALL OF THE OTHER ALLEGATIONS IN THE COMPLAINT OR AT LEAST
6 THE FIRST EIGHT, YOU KNOW -- THE FIRST EIGHT CAUSES OF
7 ACTION IN THE COMPLAINT. IT EXPRESSLY, AS ONE TYPICALLY
8 DOES, PICK UP AN RE-ALLEGES BY REFERENCE THE PREVIOUS
9 ALLEGATIONS IN THE COMPLAINT, INCLUDING THOSE THAT
10 INCLUDE THE INTENTIONAL MISCONDUCT AND ALSO INCLUDE
11 PARAGRAPHS SUCH AS -- I'LL JUST GIVE YOU AN EXAMPLE,
12 PARAGRAPH 59, WHERE IT SAYS:

13 "ICANN INTENDED TO DENY THE
14 APPLICATION ON ANY PRETEXTS."

15 THIS IS AFTER THE IRP RULING.

16 "FOR EXAMPLE, IN SEPTEMBER 2015
17 ICANN'S GEOGRAPHIC NAME EVALUATORS ISSUED
18 DCA CLARIFYING QUESTIONS REGARDING ITS
19 ENDORSEMENTS WHICH IT INTENTIONALLY DIDN'T
20 SEND IN THEIR INITIAL EVALUATION MORE THAN
21 TWO YEARS AFTER THE IRP FINALLY DECLARED
22 ICANN'S WRONGFUL SUSPENSION OF ITS
23 APPLICATION AND THEN INDICATED THAT DCA'S
24 RESPONSES TO THOSE QUESTIONS WERE
25 INADEQUATE."

26 SO THE WHOLE PREMISE HERE OF THE COMPLAINT
27 IS THAT DCA WENT THROUGH THIS IRP PROCESS. AT THE TIME
28 THE ONLY COMPLAINT THAT IT EVER HEARD WAS THE GACC

1 ADVICE. IT GETS SENT BACK DOWN. ICANN CHOSE TO PUT IT
2 BACK INTO GEOGRAPHIC NAMES, AND THEN IT IMMEDIATELY CAME
3 UP WITH, IN OUR VIEW, PRETEXTUAL REASONS AS TO WHY IT
4 COULD DENY IT SO IT DIDN'T HAVE TO COMPLETE THE PROCESS.

5 I THINK THAT'S ALL FAIRLY SUBSUMED WITHIN
6 CAUSE OF ACTION NO. 9, AND I THINK YOUR HONOR RECOGNIZED
7 THAT IN GOING THROUGH IN THE CONTEXT OF THE TENTATIVE THE
8 -- BOTH, YOU KNOW, LOOKING AT THE IRP DECLARATION BUT
9 ALSO LOOKING AT WHAT WAS DONE IN THE IMMEDIATE AFTERMATH
10 OF THAT TO LATCH ONTO WHAT ARE PRETEXTUAL REASONS FOR
11 DENYING THE APPLICATION.

12 YOU KNOW, ICANN MAKES A BIG PRESS TO FOCUS
13 ON THE MCFADDEN DECLARATION. THEY SAY, LOOK, YOU KNOW,
14 THE MCFADDEN DECLARATION MAKES IT CLEAR THESE WERE
15 COMPLETELY LEGITIMATE REASONS TO DENY THE APPLICATION.
16 WELL, THE MCFADDEN DECLARATION, FRANKLY, ISN'T A VERY
17 CREDIBLE DOCUMENT IN MY VIEW. WE HAVEN'T HAD A CHANCE TO
18 DEPOSE MR. MCFADDEN. MR. MCFADDEN IS OVERSEAS. I'M NOT
19 SURE WHY THEY PICKED A CONSULTANT OVERSEAS, BUT HE'S HARD
20 TO GET TO.

21 BUT HE SAYS -- FOR EXAMPLE, HE SAYS IF ONLY
22 WE HAD KNOWN THAT, YOU KNOW, THE DCA APPLICATION OR THE
23 DCA ENDORSEMENTS WERE WITHDRAWN, THIS WHOLE THING WOULD
24 HAVE COME OUT DIFFERENTLY. WELL, IN 2010 WHEN THE
25 AFRICAN UNION SUBMITTED THEIR SUPPOSED, YOU KNOW,
26 REVOCATION OF THE ENDORSEMENT, IT WAS COPIED TO ICANN.
27 THAT WAS FOUR YEARS BEFORE THE EVALUATION, THE
28 APPLICATION THAT DCA SUBMITTED. IT DIDN'T INCLUDE THE

1 ON IS THE CRITERIA NO. 4, WHICH IS FRAMED AS A "SHOULD";
2 SO IT'S DISCRETIONARY, AS YOUR HONOR RECOGNIZED. AND
3 WITH RESPECT TO THAT "SHOULD" REQUIREMENT, IT'S PRETTY
4 EASY TO INFER FROM THE REST OF THE LANGUAGE OF THE
5 ENDORSEMENT LETTERS, I THINK YOUR TENTATIVE SETS OUT,
6 THAT THE CRUX OF IT, WHAT YOU ARE GETTING AT IN CRITERIA
7 NO. 4, IS MET BY THE REMAINING LANGUAGE IN THE
8 ENDORSEMENT LETTER.

9 SO, FRANKLY, MCFADDEN COMING OUT, YOU KNOW,
10 IN A SITUATION WHERE WE'RE NOT ABLE TO DEPOSE HIM AND
11 SAYING, YOU KNOW, THESE THINGS THAT, FRANKLY, AREN'T VERY
12 -- I DON'T THINK ARE VERY CREDIBLE BASED ON THE RECORD
13 BEFORE US, THE NOTION THAT HIS DECLARATION SOMEHOW MAKES
14 CLEAR THAT, YOU KNOW, THE DCA APPLICATION, YOU KNOW, WAS
15 DOOMED TO FAILURE FROM THE OUTSET, I THINK IS JUST -- YOU
16 KNOW, I THINK IS JUST FLATLY WRONG.

17 YOU KNOW, AND LIKE I SAID, I WOULD SUBMIT
18 TO YOU THEY'RE READING CAUSE OF ACTION NO. 9 TOO
19 NARROWLY. ALL THAT'S GOING TO HAPPEN -- I MEAN, IF YOUR
20 HONOR ACCEPTS THAT READING, WHICH I DON'T THINK IS THE
21 RIGHT ONE, ALL THAT'S GOING TO HAPPEN IS WE'RE GOING TO
22 BE BACK HERE IN A WEEK OR TWO WEEKS WITH A TRO UNDER A
23 DIFFERENT CAUSE OF ACTION.

24 SO IF YOUR HONOR IS FUNDAMENTALLY PERSUADED
25 THAT WE'VE PRESENTED A SUFFICIENT CASE THAT THE
26 APPLICATION WAS DENIED ON A PRETEXTUAL BASIS, I DON'T
27 THINK WE SHOULD BE GETTING HUNG UP ON, YOU KNOW, THE
28 FOCUS ON CAUSE OF ACTION NO. 9 IN TRYING TO READ IT SUPER

1 NARROWLY BECAUSE, FRANKLY, WE COULD BRING THE EXACT SAME
2 ARGUMENT UNDER A DIFFERENT CAUSE OF ACTION. WE DID IT
3 UNDER NINE, THE SIMPLEST ONE TO DO.

4 THE COURT: WHAT DO YOU SAY ABOUT THAT?

5 MR. LEEVE: LET ME ADDRESS THAT FIRST. THE
6 COMPLAINT CONTAINS A LOT OF CAUSES OF ACTION. BY FAR THE
7 WEAKEST CAUSES OF ACTION ARE THE CAUSE OF ACTION
8 INVOLVING FRAUD. I DON'T KNOW THAT I WANT TO TAKE YOU
9 THROUGH IT AT THIS POINT, BUT THE FRAUD THAT IS ALLEGED
10 IS MYTHICAL, DIDN'T HAPPEN. AND IF WE WERE LITIGATING
11 THE FRAUD CAUSE OF ACTION UNDER A TRO OR PRELIMINARY
12 INJUNCTION, WE'D HAVE A WHOLE DIFFERENT SET OF EVIDENCE
13 BEFORE THE COURT.

14 I GAVE THE COURT NINTH CAUSE OF ACTION. I
15 READ IT TO THE COURT. I REALIZE I DIDN'T INCLUDE
16 PARAGRAPH 125, THE LAST PARAGRAPH, WHICH, AGAIN, SAYS:

17 "PLAINTIFF IS ENTITLED TO AN
18 INJUNCTION REQUIRING ICANN TO ABIDE BY THE
19 IRP RULING."

20 WE DID. WE ABIDED BY THE IRP RULING BY
21 GOING THROUGH THE GEOGRAPHIC NAMES REVIEW AND NOT BY
22 GIVING DCA A PASS. SKIP THE WHOLE QUESTION OF WHETHER IT
23 HAS SUPPORT OF THE AFRICAN CONTINENT, WHICH IS -- TO
24 ICANN WOULD MAKE NO SENSE, AND THE IRP PANEL NEVER
25 ORDERED IT AS HIS CLIENT AGREED IN DEPOSITION. YES, THIS
26 COMPLAINT DOES HAVE A CAUSE OF ACTION FOR FRAUD, BUT WHEN
27 YOU READ THE NINTH CAUSE OF ACTION, THERE IS NO ALLUSIONS
28 TO IT. YEAH, THEY INCORPORATE EVERYTHING ELSE BY