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 11 **ZA Central Registry, NPC**

12 **UNITED STATES DISTRICT COURT**
 13 **CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION**

14 DOTCONNECTAFRICA TRUST, a
 15 Mauritius Charitable Trust,
 16
 17 Plaintiff,
 18 v.

19 INTERNET CORPORATION FOR
 20 ASSIGNED NAMES AND
 21 NUMBERS; a California corporation;
 22 ZA Central Registry, a South African
 23 non-profit company; DOES 1 through
 24 50, inclusive,
 25 Defendants.

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

*Assigned for all purposes to the
 Honorable R. Gary Klausner*

**ZACR’S NOTICE OF MOTION
 AND MOTION TO RECONSIDER
 AND VACATE PRELIMINARY
 INJUNCTION RULING**

[Memorandum of Points and
 Authorities; Declaration of David W.
 Kesselman; Declaration of Mokgabudi
 Lucky Masilela; and [Proposed] Order
 Filed Concurrently Herewith]

Date: June 6, 2016
 Time: 9:00 a.m.
 Location: Courtroom 850

1 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2 **PLEASE TAKE NOTICE** that on June 6, 2016, at 9:00 a.m., or as soon
3 thereafter as the matter may be heard in the courtroom of the Honorable R. Gary
4 Klausner, Courtroom 850, United States District Court for the Central District of
5 California, 255 East Temple Street, Los Angeles, California, Defendant ZA
6 Central Registry (“ZACR”) will and hereby does move the Court to reconsider
7 and vacate the preliminary injunction order issued on April 12, 2016 (the
8 “Order”).

9 In the Order, the Court ruled that defendant Internet Corporation for
10 Assigned Names and Numbers (“ICANN”) is precluded from delegating the top
11 level domain (“gTLD”) .Africa to defendant ZACR. ZACR, which had not yet
12 appeared in the litigation when the parties were briefing these issues, makes this
13 motion on the following grounds:

14 First, the Order is predicated upon a key factual error that mandates
15 reconsideration. The Court read DCA’s papers to suggest that it had already
16 passed the geographic names evaluation process and therefore, after the IRP
17 decision, the Court found “serious questions in DCA’s favor as to whether DCA’s
18 application should have proceeded to the delegation stage following the IRP
19 decision.” (Order at 6.) But this was a factual error. The record is undisputed
20 that DCA’s application had not passed the geographic names evaluation process.
21 And it could not because DCA did not have the requisite support of 60% or more
22 of the African Union governments. Further, DCA’s application had been the
23 subject of 17 “Early Warning” submissions by African Union governments.
24 Correcting for this factual error, the record is clear that DCA has no likelihood of
25 success in this litigation.

26 Second, the Order presumed irreparable harm based upon an inaccurate
27 statement in DCA’s moving papers. The Court, relying upon DCA’s incorrect
28

1 statement, stated that the gTLD “.Africa can be delegated only once.” But this is
2 not true. There is no technological barrier to redelegation of a gTLD. Indeed,
3 ICANN prepared a manual in 2013 specifically addressing the requirements for a
4 redelegation of a gTLD. Accordingly, DCA cannot demonstrate irreparable harm
5 because .Africa could be redelegated at a future date.

6 Third, the Court should reconsider and vacate the preliminary injunction
7 because the earlier analysis of the balance of equities did not take into account the
8 harm to ZACR. The delay in the delegation of the gTLD .Africa continues to
9 cause significant economic harm to ZACR, and continues to harm the African
10 people. On a proper record, correcting for the errors noted above and considering
11 the harm to ZACR and the African people, the equities clearly balance against an
12 injunction.

13 Finally, reconsideration should be allowed because, at a minimum, DCA
14 should be forced to post a bond. Consideration of a bond is mandatory under the
15 Federal Rules and is especially important here given the ongoing impact of the
16 injunction on ZACR and the people of Africa.

17 Pursuant to Local Rule 7-3, counsel for ZACR met and conferred with
18 counsel for DCA to discuss the grounds for this Motion. The parties were unable
19 to reach agreement, thereby necessitating the filing of this Motion.

20 This Motion is based upon the Notice of Motion and Motion, the
21 accompanying Memorandum of Points and Authorities, the Declaration of
22 Mokgabudi Lucky Masilela, the Declaration of David W. Kesselman, the
23 pleadings and documents on file in this action, and any further evidence and
24 argument that may be presented at the time of the hearing.

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DATED: May 6, 2016

Respectfully submitted,
KESSELMAN BRANTLY STOCKINGER LLP

By: /s/ David W. Kesselman
David W. Kesselman
Amy T. Brantly

Attorneys for Defendant ZA Central
Registry, NPC