



November 27, 2013

Ms. Carolina Cárdenas-Soto, LL.M.  
Attorney at Law, Colombia  
Senior International Case Manager  
International Center for Dispute Resolution  
120 Broadway, 21st Floor, New York, NY 10271  
CardenasC@adr.org

Dear Ms. Cárdenas-Soto,

**Re: *ICDR Case No. 50 117 T 01083 13 - In the Matter of Arbitration between DotConnectAfrica Trust (DCA Trust) vs. Internet Corporation for Assigned Names and Numbers (ICANN)***

We have received a copy of the letter to the ICDR dated November 27, 2013 from Mr. Jeffrey LeVee of Jones Day, external Counsel of ICANN, in ICDR Case No. 50 117 T 01083 13 - In the Matter of Arbitration between DotConnectAfrica Trust (DCA Trust) vs. Internet Corporation for Assigned Names and Numbers (ICANN), and hereby wish to respond as follows:

1. DCA Trust has not violated any procedures in the process of filing this case with the ICDR. Rather, we believe that the External Counsel of ICANN has wrongly presumed that at no time in the recent past did DCA Trust officially notify ICANN that it was commencing IRP proceedings to request the independent review of an injurious ICANN Board decision that DCA Trust found to be inequitable and wrong.
2. To the best of our knowledge, the ICDR Notice of Independent Review form (November 14, 2011 version) which is currently available at [http://www.icdr.org/icdr/ShowPDF?doc=ADRSTG\\_004341](http://www.icdr.org/icdr/ShowPDF?doc=ADRSTG_004341) is a one-page document which we duly completed and submitted. We are not aware that the Notice of Independent Review is a 2-page document as claimed by the ICANN External Counsel, Mr. Jeffrey LeVee. If it is indeed correct that the Notice of Independent Review is a one-page document, then the statement indicated in the footnote on the second page of Mr. Jeffrey LeVee's letter is extraneous and inadmissible.
3. DCA Trust has duly notified ICANN in writing about its IRP intentions on more than one occasion (first, in August 2013 prior to commencing the Cooperative Engagement Process, and again in October 2013 following the conclusion of the Cooperative Engagement Process); including one clarification<sup>1</sup> dated September 28, 2013 to clarify why we think ICANN violated

---

<sup>1</sup>The clarifications were sought by the ICANN representatives during the CEP discussions between DCA Trust and ICANN.



its Bylaws. We believe that DCA Trust has sufficiently stated its grounds for requesting an Independent Review before the necessary paperwork was actually filed with the ICDR.

4. The Notice of Independent Review Form clearly indicates that “The named claimant seeks this independent review in accordance with Article IV, Section 3 of the ICANN Bylaws. The claimant agrees that such Independent Review shall be conducted pursuant to the International Arbitration Rules (“Rules”) of the International Dispute Resolution Procedures as supplemented per ICANN’s Bylaws.”
5. We unequivocally posit that the External Counsel of ICANN has not been properly briefed by his client, and should have, at a minimum, received a binder from the ICANN in-house Counsel containing all pertinent correspondence on this matter, including official letters from DCA Trust that were written at different times to notify ICANN of DCA Trust’s intentions to commence IRP proceedings against ICANN.

DCA Trust therefore requests that the letter from Mr. Jeffrey LeVee which wrongly assumes that the manner in which DCA Trust initiated its request for independent review is procedurally defective should be immediately denied by the ICDR Case Manager for lack of merit.

We hereby note that the ICANN External Counsel attempted to use a ‘presumptuous technicality’ to disingenuously have the case dismissed on procedural grounds, so as to prevent an opportunity for a fair juridical (arbitral) hearing and forestall the completion of an accountability process that DCA Trust is seeking to rectify a wrong ICANN Board decision.

We therefore look forward to the earnest continuation of the IRP process, starting with the Administrative Conference Call that has already been scheduled to take place on Wednesday, December 4, 2013.

Thanking you in anticipation of your kind consideration.

Yours sincerely,  
*For & On Behalf of DotConnectAfrica Trust*

*Bekele*

Ms. Sophia Bekele, B.S., M.B.A., C.I.S.A, C.C.S, CGEIT

cc: Jeffrey A. LeVee, Jones Day, Counsel to ICANN (jlevee@JonesDay.com)  
cc: John Jeffrey, ICANN General Counsel & Secretary  
cc: Amy A. Stathos, ICANN Deputy General Counsel  
cc: Giovanna Micheli, LL.M., ICDR Supervisor (MicheliG@adr.org)