

Weil, Gotshal & Manges LLP

1300 Eye Street NW, Suite 900
Washington, DC 20005-3314
+1 202 682 7000 tel
+1 202 857 0940 fax

Arif H. Ali
+1 (202) 682-7004
arif.ali@weil.com

March 23, 2014

Jeffrey A. LeVee, Esq.
Jones Day, LLP
555 South Flower Street
Fiftyth Floor
Los Angeles, CA 90071
Tel: +1 213 243 2572
Fax: +1 213 243 2539
Email: jlevee@jonesday.com

Re: Urgent Request Re ICDR Case 50 117 T 1083 13 DotConnectAfrica Trust (“DCA”) vs. Internet Corporation for Assigned Names and Numbers (“ICANN”)

Dear Mr LeVee:

We write to urgently request that ICANN refrain from delegating the .AFRICA domain name to Uniform/ZACR by signing a contract with the latter, as we understand it plans to do in Singapore on March 26, 2014.¹

As you are well aware, and as we explained in our letter to you of January 22, if ICANN proceeds with the delegation of .AFRICA to another applicant before this IRP proceeding has run its course, ICANN will effectively eviscerate DCA’s right to challenge ICANN’s arbitrary and wrongful treatment of its application for .AFRICA.²

Just as importantly, if ICANN proceeds as it apparently intends to do, it will seriously undermine the transparency and accountability procedures ICANN itself has established to safeguard the integrity of its activities concerning the Internet naming and numbering system. ICANN will, moreover, substantially damage its own credibility as the entity responsible for assuring secure and transparent Internet

¹ Email from Alice Munyua dated March 23, 2014 (announcing signing of Uniform/ZACR contract signing with ICANN for March 26, 2014), Annex A hereto.

² Letter from DCA to ICANN dated January 22, 2014, Annex B hereto. *See also* Email from J. LeVee to A. Ali dated February 5, 2014 (refusing to suspend processing of applications for .AFRICA), Annex C hereto.

Jeffrey A. LeVee, Esq.
March 23, 2014
Page 2

Weil, Gotshal & Manges LLP

governance procedures. Indeed, if ICANN proceeds to delegate .AFRICA notwithstanding the pendency of this proceeding, it will fail in its responsibility to Internet stakeholders around the world.

We would appreciate your immediate reply to this urgent request, and reserve our right to seek relief elsewhere if we do not hear from you by end of business on March 24, or if ICANN indicates that it plans to go forward with the delegation of .AFRICA in Singapore.

Sincerely,



Arif H. Ali
Counsel for DCA Trust

Cc: Carolina Cardenas-Soto, ICDR
Professor Catherine Kessedjian
Judge Richard C. Neal
Neil Dundas, Director, ZA Central Registry
Simla Budhu, Legal & Policy Manager, ZACR

Enclosures

Annex A

2

----- Original message ----- Subject:[governance] Re: [aisi-ig-l] Dot Africa contract signing ceremony

From:Nnenna Nwakanma To:aisi-igl@

dgroups.org,africann@afrinic.net,bestbits@lists.bestbits.net,governance@lists.igcaucus.org Cc:

Thanks, Alice.. sharing at the same time to the larger networks

On Sun, Mar 23, 2014 at 8:33 AM, Alice Munyua <alice@apc.org> wrote:

Dear Colleagues,

Apologies for cross posting.

The AUC/ZACR Dot Africa contract signing ceremony will take place during the ICANN meeting in Singapore.

For those present, please see below details

When: Wednesday 26 at

Time: 18.30

Venue: CANNING room

There will be video coverage and live streaming for this historic moment.

Annex B

Weil, Gotshal & Manges LLP

VIA EMAIL

1300 Eye Street NW, Suite 900
Washington, DC 20005-3314
+1 202 682 7000 tel
+1 202 857 0940 fax

22 January 2014

Arif Ali
202-682-7004
Arif.ali@weil.com

Jeffrey A. LeVee
Jones Day, LLP
555 South Flower Street
Fiftyth Floor
Los Angeles, CA 90071
Tel: +1 213 243 2572
Fax: +1 213 243 2539
Email: jleee@jonesday.com

Fadi Chehadé, CEO
John Jeffrey, General Counsel
Internet Corporation for Assigned Names and Numbers
12025 Waterfront Drive, Suite 300
Los Angeles, CA 90094-2536
Tel: +1 310 301 5800
Fax: +1 310 823 8649

Ref: Independent Review Process (ICDR No. 50 117 T 1083 13)
DotConnectAfrica Trust v. Internet Corporation for Assigned Names and Numbers

Dear Sirs:

We write on behalf of Claimant DotConnectAfrica Trust (“DCA”) in the above-referenced matter to request that ICANN immediately cease any further processing of all applications for the delegation of the .AFRICA gTLD.

As you are aware, DCA is challenging ICANN’s decision not to proceed with DCA’s application for the .AFRICA gTLD on the grounds that ICANN’s conduct with respect to applications for the .AFRICA gTLD, and its treatment of DCA’s application, were unfair, discriminatory, and lacked appropriate due diligence and care, in breach of ICANN’s Articles of Incorporation and Bylaws. Should DCA succeed in its challenge, it believes its application must proceed, in accordance with the gTLD Applicant Guidebook. According to the rules set forth in the Guidebook, if it passed initial review, DCA would enter into a contention set with other applicants for the .AFRICA gTLD in order to negotiate an appropriate outcome to the competing applications for this domain name.

Obviously, DCA's right to proceed in the application process would be irreparably harmed if ICANN continued to process other applications for the .AFRICA gTLD, as this may result in a decision to award the domain name to another applicant before the IRP has concluded. Indeed, we understand that there is only one other application for the .AFRICA gTLD, and that the applicant has made public statements concerning its expectation that ICANN will award it the .AFRICA domain name in the very near future. Should ICANN take this step, DCA's request for relief through the IRP would be rendered moot, as DCA would be irretrievably deprived of the relief it seeks. Accordingly, it is our view that any actions taken by ICANN to further process applications for the .AFRICA gTLD would breach the rules and procedures ICANN has laid out for the New gTLD Program, as well as its obligation to abide by the principles expressed in its Bylaws and Articles of Incorporation, particularly the obligation to act transparently and in good faith.

Should ICANN refuse to suspend processing of applications for the .AFRICA domain name, we intend to seek emergency relief under Article 37 of the ICDR International Arbitration Rules. We believe we have the right to seek such relief because there is no standing panel (as anticipated in the Supplementary Procedures put together by ICANN), which would otherwise hear requests for emergency relief pending the constitution of the Tribunal.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Arif H. Ali', with a stylized flourish at the end.

Arif H. Ali

Weil, Gotshal, Manges, LLP
1300 Eye Street, NW, Suite 900
Washington, DC 20005
Tel: +1 202 682 7000
Fax: +1 202 857 0940

Annex C

From: Jeffrey LeVee [<mailto:jlevee@JonesDay.com>]

Sent: Wednesday, February 05, 2014 3:33 PM

To: Walter, Marguerite

Cc: Ali, Arif; Franzetti, Erica; Eric P. Enson; Cindy Reichline

Subject: Re: ICDR Case 50 117 T 1083 13 DotConnectAfrica Trust (DCA Trust) vs. Internet Corporation for Assigned Names and Numbers (ICANN)

Arif:

Thank you for your letter. Although ICANN typically is refraining from further processing activities in conjunction with pending gTLD applications where a competing applicant has a pending reconsideration request, ICANN does not intend to refrain from further processing of applications that relate in some way to pending independent review proceedings. In this particular instance, ICANN believes that the grounds for DCA's IRP are exceedingly weak, and that the decision to refrain from the further processing of other applications on the basis of the pending IRP would be unfair to others.

I am, of course, available to discuss this at your convenience.

Jeff LeVee

[JONES DAY® - One Firm Worldwide](#)

Telephone: 213.243.2572

From: "Walter, Marguerite" <Marguerite.Walter@weil.com>

To: "jlevee@JonesDay.com" <jlevee@JonesDay.com>,

Cc: "Ali, Arif" <Arif.Ali@weil.com>, "Franzetti, Erica" <Erica.Franzetti@weil.com>

Date: 01/22/2014 11:02 AM

Subject: ICDR Case 50 117 T 1083 13 DotConnectAfrica Trust (DCA Trust) vs. Internet Corporation for Assigned Names and Numbers (ICANN)

Dear Mr. LeVee,

Please see the attached letter from Mr. Ali.

Best regards,



Marguerite C. Walter

Weil, Gotshal & Manges LLP
1300 Eye Street NW, Suite 900
Washington, DC 20005-3314
marguerite.walter@weil.com
+1 202 682 7102 Direct
+1 202 857 0940 Fax

The information contained in this email message is intended only for use of the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly

prohibited. If you have received this communication in error, please immediately notify us by email, postmaster@weil.com, and destroy the original message. Thank you.[attachment "LeVee Ltr..pdf" deleted by Jeffrey LeVee/JonesDay]

=====

This e-mail (including any attachments) may contain information that is private, confidential, or protected by attorney-client or other privilege. If you received this e-mail in error, please delete it from your system without copying it and notify sender by reply e-mail, so that our records can be corrected.

=====