

NAI-1502335553v1

Defendant Internet Corporation for Assigned Names and Numbers ("ICANN") hereby responds to Plaintiff DotConnectAfrica Trust's ("DCA") evidentiary objections to the Declaration of A. Atallah ("Atallah Decl."), filed in support of ICANN's Opposition to DCA's Motion for Preliminary Injunction.

6	Atallah Declaration	DCA Objection	ICANN's Response	Court's Ruling
. 11 1	2: ICANN is a California	1. Lacks Foundation	Foundation/Personal	
_ 11 1	not-for profit public benefit	(Evid. Code § 403)	Knowledge. Mr. Atallah	
11 1	corporation. ICANN		laid the foundation for	
()	oversees the technical	2. Lacks Personal	his testimony. Atallah	
c	coordination of the	Knowledge (Evid.	testified that he is the	
U III	Internet's domain name	Code § 702)	President, Global	
11 1	system ("DNS") on behalf		Domains Division, for	
11 1	of the Internet community,		ICANN (Atallah Decl. ¶	
~ II I	ensuring the DNS's		1.) As such, he has	
111	continued security, stability,		personal knowledge of	
Z 11 1	and integrity. As set forth in		ICANN's mission and	
ı t	the version of ICANN's		functions.	
T 11	Bylaws relevant to this		Post Exidence Mr	
11 1	dispute ("Bylaws"),		Best Evidence. Mr. Atallah's statement is not	
_	ICANN's mission "is to	3. Best Evidence	offered to prove the	
/ 11 1	coordinate, at the overall	Rule (Evid. Code §	contents of a writing. Mr.	
1	level, the global Internet's system of unique identifiers,	1520)	Atallah's testimony is	
/ 11	and in particular to ensure	1320)	based on his personal	
111	the stable and secure		knowledge of ICANN's	
O III	operation of the Internet's		mission and Bylaws. A	
11 1	unique identifier systems,"		true and correct copy of	
IL I	including the DNS.		the ICANN Bylaws is in	
A 81	Declaration of Sophia		the record (Bekele Decl.,	
т	Bekele Eshete ("Bekele		Ex. 4.)	
1 13 1	Decl."), Ex. 4 (Bylaws, Art.			
LE J	I, § 1). ICANN's amended			
_    I	Bylaw became effective			
3    (	October 1, 2016, and DCA			
,    c	does not contend that the			
65	amended Bylaws are			
5   I	relevant to this dispute.			
	Atallah Declaration	DCA Objection	ICANN's Response	Court's
6				Ruling
77 11 1	¶3: The essential function of	1. Lacks Foundation	Foundation/Personal	
	the DNS is to convert	(Evid. Code § 403)	Knowledge. Mr. Atallah	
28	numeric IP addresses into		laid the foundation for	L

ICANN'S RESPONSES TO DCA'S OBJECTIONS TO THE DECLARATION OF A. ATALLAH

1	easily-remembered domain	2. Lacks Personal	his testimony. Atallah	
_	names that permit users to	Knowledge (Evid.	testified that he is the	
2	find specific websites, such	Code § 702)	President, Global	
3	as "USCOURTS.GOV" and		Domains Division, for	
_	"ICANN.ORG." The		ICANN (Atallah Decl. ¶	
4	".GOV" and ".ORG" in		1.) As such, he has	
_	these addresses, just like the		personal knowledge of	
5	more well-known ".COM,"		the function of the DNS,	
6	are referred to as top-level		ICANN's responsibilities	
1	domains ("TLDs"). ICANN		related to TLDs, and the	
7	is solely responsible for		lack of government and	
8	evaluating potential TLD operators and		regulatory governance.	
0	recommending that TLDs be	3. Improper Opinion	Opinion Testimony: Mr.	
9	added to the DNS. No	Testimony (Evid.	Atallah is not giving	
	government entity or	Code	opinion testimony. Even	
10	regulatory scheme governs	§720)	if he were, Mr. Atallah is	
11	ICANN's decisions in that	· · · · ·	qualified to testify, based	
1.1	respect.		on his knowledge and	
12			experience demonstrated	
10			by his testimony at ¶ 1,	
13			of the function of the	
14			DNS, ICANN's	
17			responsibilities related to	
15			TLDs, and the lack of	
12	1			
j			government and	
16			government and regulatory governance.	
j	Atallah Declaration	DCA Objection	1 9	Court's Ruling
16	Atallah Declaration  ¶4: Throughout its history,	DCA Objection  1. Lacks Foundation	regulatory governance.  ICANN's Response  Foundation/Personal	
16 17 18	¶4: Throughout its history, ICANN has sought to		regulatory governance.  ICANN's Response  Foundation/Personal Knowledge. Mr. Atallah	
16 17	¶4: Throughout its history, ICANN has sought to expand the number of	1. Lacks Foundation (Evid. Code § 403)	regulatory governance.  ICANN's Response  Foundation/Personal Knowledge. Mr. Atallah laid the foundation for	
16 17 18 19	¶4: Throughout its history, ICANN has sought to expand the number of accessible TLDs in the DNS	1. Lacks Foundation (Evid. Code § 403) 2. Lacks Personal	regulatory governance.  ICANN's Response  Foundation/Personal Knowledge. Mr. Atallah laid the foundation for his testimony. Atallah	
16 17 18	¶4: Throughout its history, ICANN has sought to expand the number of accessible TLDs in the DNS in order to promote	1. Lacks Foundation (Evid. Code § 403)  2. Lacks Personal Knowledge (Evid.	regulatory governance.  ICANN's Response  Foundation/Personal Knowledge. Mr. Atallah laid the foundation for his testimony. Atallah testified that he is the	
16 17 18 19	¶4: Throughout its history, ICANN has sought to expand the number of accessible TLDs in the DNS in order to promote consumer choice and	1. Lacks Foundation (Evid. Code § 403) 2. Lacks Personal	regulatory governance.  ICANN's Response  Foundation/Personal Knowledge. Mr. Atallah laid the foundation for his testimony. Atallah testified that he is the President, Global	
16 17 18 19 20 21	¶4: Throughout its history, ICANN has sought to expand the number of accessible TLDs in the DNS in order to promote consumer choice and competition. The New	1. Lacks Foundation (Evid. Code § 403)  2. Lacks Personal Knowledge (Evid.	regulatory governance.  ICANN's Response  Foundation/Personal Knowledge. Mr. Atallah laid the foundation for his testimony. Atallah testified that he is the President, Global Domains Division, for	
16 17 18 19 20	¶4: Throughout its history, ICANN has sought to expand the number of accessible TLDs in the DNS in order to promote consumer choice and competition. The New gTLD Program	1. Lacks Foundation (Evid. Code § 403)  2. Lacks Personal Knowledge (Evid.	regulatory governance.  ICANN's Response  Foundation/Personal Knowledge. Mr. Atallah laid the foundation for his testimony. Atallah testified that he is the President, Global Domains Division, for ICANN (Atallah Decl. ¶	
16 17 18 19 20 21 22	¶4: Throughout its history, ICANN has sought to expand the number of accessible TLDs in the DNS in order to promote consumer choice and competition. The New gTLD Program ("Program"), launched in	1. Lacks Foundation (Evid. Code § 403)  2. Lacks Personal Knowledge (Evid.	regulatory governance.  ICANN's Response  Foundation/Personal Knowledge. Mr. Atallah laid the foundation for his testimony. Atallah testified that he is the President, Global Domains Division, for ICANN (Atallah Decl. ¶ 1.) As such, he has	
16 17 18 19 20 21 22 23	¶4: Throughout its history, ICANN has sought to expand the number of accessible TLDs in the DNS in order to promote consumer choice and competition. The New gTLD Program ("Program"), launched in 2012, constitutes ICANN's	1. Lacks Foundation (Evid. Code § 403)  2. Lacks Personal Knowledge (Evid.	regulatory governance.  ICANN's Response  Foundation/Personal Knowledge. Mr. Atallah laid the foundation for his testimony. Atallah testified that he is the President, Global Domains Division, for ICANN (Atallah Decl. ¶ 1.) As such, he has personal knowledge of	
16 17 18 19 20 21 22	¶4: Throughout its history, ICANN has sought to expand the number of accessible TLDs in the DNS in order to promote consumer choice and competition. The New gTLD Program ("Program"), launched in	1. Lacks Foundation (Evid. Code § 403)  2. Lacks Personal Knowledge (Evid.	regulatory governance.  ICANN's Response  Foundation/Personal Knowledge. Mr. Atallah laid the foundation for his testimony. Atallah testified that he is the President, Global Domains Division, for ICANN (Atallah Decl. ¶ 1.) As such, he has	
16 17 18 19 20 21 22 23 24	¶4: Throughout its history, ICANN has sought to expand the number of accessible TLDs in the DNS in order to promote consumer choice and competition. The New gTLD Program ("Program"), launched in 2012, constitutes ICANN's most ambitious expansion of	1. Lacks Foundation (Evid. Code § 403)  2. Lacks Personal Knowledge (Evid.	Foundation/Personal Knowledge. Mr. Atallah laid the foundation for his testimony. Atallah testified that he is the President, Global Domains Division, for ICANN (Atallah Decl. ¶ 1.) As such, he has personal knowledge of TLD expansion and the	
16 17 18 19 20 21 22 23	¶4: Throughout its history, ICANN has sought to expand the number of accessible TLDs in the DNS in order to promote consumer choice and competition. The New gTLD Program ("Program"), launched in 2012, constitutes ICANN's most ambitious expansion of the Internet's naming	1. Lacks Foundation (Evid. Code § 403)  2. Lacks Personal Knowledge (Evid.	Foundation/Personal Knowledge. Mr. Atallah laid the foundation for his testimony. Atallah testified that he is the President, Global Domains Division, for ICANN (Atallah Decl. ¶ 1.) As such, he has personal knowledge of TLD expansion and the	
16 17 18 19 20 21 22 23 24	¶4: Throughout its history, ICANN has sought to expand the number of accessible TLDs in the DNS in order to promote consumer choice and competition. The New gTLD Program ("Program"), launched in 2012, constitutes ICANN's most ambitious expansion of the Internet's naming system. The Program's goals include enhancing competition and consumer	1. Lacks Foundation (Evid. Code § 403)  2. Lacks Personal Knowledge (Evid. Code § 702)  3. Improper Opinion Testimony (Evid.	Foundation/Personal Knowledge. Mr. Atallah laid the foundation for his testimony. Atallah testified that he is the President, Global Domains Division, for ICANN (Atallah Decl. ¶ 1.) As such, he has personal knowledge of TLD expansion and the New gTLD Program.  Opinion Testimony: Mr. Atallah is not giving	
16 17 18 19 20 21 22 23 24 25 26	¶4: Throughout its history, ICANN has sought to expand the number of accessible TLDs in the DNS in order to promote consumer choice and competition. The New gTLD Program ("Program"), launched in 2012, constitutes ICANN's most ambitious expansion of the Internet's naming system. The Program's goals include enhancing competition and consumer choice, and enabling the	1. Lacks Foundation (Evid. Code § 403)  2. Lacks Personal Knowledge (Evid. Code § 702)  3. Improper Opinion Testimony (Evid. Code	regulatory governance.  ICANN's Response  Foundation/Personal Knowledge. Mr. Atallah laid the foundation for his testimony. Atallah testified that he is the President, Global Domains Division, for ICANN (Atallah Decl. ¶ 1.) As such, he has personal knowledge of TLD expansion and the New gTLD Program.  Opinion Testimony: Mr. Atallah is not giving opinion testimony. Even	
16 17 18 19 20 21 22 23 24 25	¶4: Throughout its history, ICANN has sought to expand the number of accessible TLDs in the DNS in order to promote consumer choice and competition. The New gTLD Program ("Program"), launched in 2012, constitutes ICANN's most ambitious expansion of the Internet's naming system. The Program's goals include enhancing competition and consumer choice, and enabling the benefits of innovation via	1. Lacks Foundation (Evid. Code § 403)  2. Lacks Personal Knowledge (Evid. Code § 702)  3. Improper Opinion Testimony (Evid.	Foundation/Personal Knowledge. Mr. Atallah laid the foundation for his testimony. Atallah testified that he is the President, Global Domains Division, for ICANN (Atallah Decl. ¶ 1.) As such, he has personal knowledge of TLD expansion and the New gTLD Program.  Opinion Testimony: Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is	
16 17 18 19 20 21 22 23 24 25 26 27	¶4: Throughout its history, ICANN has sought to expand the number of accessible TLDs in the DNS in order to promote consumer choice and competition. The New gTLD Program ("Program"), launched in 2012, constitutes ICANN's most ambitious expansion of the Internet's naming system. The Program's goals include enhancing competition and consumer choice, and enabling the benefits of innovation via the introduction of new	1. Lacks Foundation (Evid. Code § 403)  2. Lacks Personal Knowledge (Evid. Code § 702)  3. Improper Opinion Testimony (Evid. Code	Foundation/Personal Knowledge. Mr. Atallah laid the foundation for his testimony. Atallah testified that he is the President, Global Domains Division, for ICANN (Atallah Decl. ¶ 1.) As such, he has personal knowledge of TLD expansion and the New gTLD Program.  Opinion Testimony: Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based	
16 17 18 19 20 21 22 23 24 25 26	¶4: Throughout its history, ICANN has sought to expand the number of accessible TLDs in the DNS in order to promote consumer choice and competition. The New gTLD Program ("Program"), launched in 2012, constitutes ICANN's most ambitious expansion of the Internet's naming system. The Program's goals include enhancing competition and consumer choice, and enabling the benefits of innovation via the introduction of new generic TLDs ("gTLDs"),	1. Lacks Foundation (Evid. Code § 403)  2. Lacks Personal Knowledge (Evid. Code § 702)  3. Improper Opinion Testimony (Evid. Code § 702)	Foundation/Personal Knowledge. Mr. Atallah laid the foundation for his testimony. Atallah testified that he is the President, Global Domains Division, for ICANN (Atallah Decl. ¶ 1.) As such, he has personal knowledge of TLD expansion and the New gTLD Program.  Opinion Testimony: Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is	
16 17 18 19 20 21 22 23 24 25 26 27	¶4: Throughout its history, ICANN has sought to expand the number of accessible TLDs in the DNS in order to promote consumer choice and competition. The New gTLD Program ("Program"), launched in 2012, constitutes ICANN's most ambitious expansion of the Internet's naming system. The Program's goals include enhancing competition and consumer choice, and enabling the benefits of innovation via the introduction of new generic TLDs ("gTLDs"),	1. Lacks Foundation (Evid. Code § 403)  2. Lacks Personal Knowledge (Evid. Code § 702)  3. Improper Opinion Testimony (Evid. Code § 702)	Foundation/Personal Knowledge. Mr. Atallah laid the foundation for his testimony. Atallah testified that he is the President, Global Domains Division, for ICANN (Atallah Decl. ¶ 1.) As such, he has personal knowledge of TLD expansion and the New gTLD Program.  Opinion Testimony: Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based	Ruling

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1	including both new ASCII		experience demonstrated	
	gTLDs and new non-		by his testimony at ¶ 1,	
2	ASCIII, internationalized		of TLD expansion and	
3	domain name gTLDs. It resulted in the submission of	4. Speculation (Evid. Code § 702)	the New gTLD Program.	
4	1,930 applications for new	Code § 702)	Speculation. Mr.	
	gTLDs, including DCA's		Atallah's own	
5	and ZA Central Registry's		understanding of TLD	
6	("ZACR's") applications for		expansion and the New	
· · ·	the .AFRICA gTLD.		gTLD Program is not	
7			speculative, but a subject	
8			Mr. Atallah has personal	
	Control of the Contro		knowledge of.	C
9	Atallah Declaration	DCA Objection	ICANN's Response	Court's Ruling
10	¶5: A number of "Advisory Committees" advise	1. Lacks Foundation	Foundation/Personal Knowledge. Mr. Atallah	
11	ICANN's Board on various	(Evid. Code § 403)	laid the foundation for	
11	topics described in the	2. Lacks Personal	his testimony. Atallah	
12	ICANN Bylaws. The	Knowledge (Evid.	testified that he is the	
	Governmental Advisory	Code § 702)	President, Global	
13	Committee ("GAC") has	- · · · · · · · · · · · · · · · · · · ·	Domains Division, for	
14	members composed of		ICANN (Atallah Decl. ¶	
	national governments and		1.) As such, he has	
15	distinct economies as		personal knowledge of	
16	recognized in international		the Advisory Committees that advise ICANN's	
	fora, including the United States, and its purpose is to		Board, including the	
17	"consider and provide		GAC.	
18	advice on the activities of			
	ICANN as they relate to	3. Speculation (Evid.	Speculation. Mr.	
19	concerns of governments,	Code § 702)	Atallah's own	
20	particularly matters where		understanding of the	
	there may be an interaction between ICANN's policies		ICANN Bylaws and the role of GAC is not	
21	and various laws and		speculative, but a subject	
22	international agreements or		Mr. Atallah has personal	
22	where they may affect		knowledge of.	
23	public policy issues."	4. Best Evidence		
24	Bekele Decl., Ex. 4 (Bylaws, Art. XI, § 2.1).	Rule (Evid. Code § 1520)	Best Evidence. Mr. Atallah's statement is not	
25	(2) 14110, 1 110, 1 11, y 211).		offered to prove the	
۷ ع			contents of a writing. Mr.	
26			Atallah's testimony is	
27			based on his personal knowledge of the	
28			Advisory Committees	
20			that advise ICANN's	
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1	ICANN'S RESPONSES TO	DCA'S OBJECTIONS TO	O THE DECLARATION OF A.	ATALLAH

		Board. A true and correct copy of the ICANN Bylaws is in the record (Bekele Decl., Ex. 4.)	
Atallah Declaration	DCA Objection	ICANN's Response	Court's Ruling
¶6: ICANN's Bylaws	1. Best Evidence	Best Evidence. Mr.	8
provide for several	Rule (Evid. Code §	Atallah's statement is not	
accountability mechanisms	1520)	offered to prove the	
to ensure that ICANN		contents of a writing. Mr.	
operates in accordance with its Articles of Incorporation,		Atallah's testimony is	
Bylaws, policies and		based on his personal	
procedures. See Bekele		knowledge of the accountability	
Decl., Ex. 4 (Bylaws, Arts.		mechanisms provided by	
IV-V). For example, an		ICANN's Bylaws. A true	
aggrieved applicant can file		and correct copy of the	
a "request for		ICANN Bylaws is in the	
reconsideration," which is a		record (Bekele Decl., Ex.	
mechanism that asks the		4.)	
ICANN Board to reevaluate	2. Lacks Foundation		
certain Board or staff	(Evid. Code § 403)	Foundation/Personal	
actions or inactions that the	,	Knowledge. Mr. Atallah	
applicant believes have	3. Lacks Personal	laid the foundation for	
harmed it. Id. (Bylaws, Art.	Knowledge (Evid.	his testimony. Atallah	
IV, § 2). In addition, an	Code § 702)	testified that he is the	
aggrieved applicant can file		President, Global	
a "request for independent		Domains Division, for	
review," a unique process		ICANN (Atallah Decl. ¶	
set forth in ICANN's		1.) As such, he has	
Bylaws that asks		personal knowledge of	
independent panelists to		the accountability	
evaluate whether an action of ICANN's Board was		mechanisms provided by ICANN's Bylaws.	
consistent with ICANN's	4. Speculation (Evid.	ICAININ'S Bylaws.	
Articles of Incorporation	Code § 702)	Speculation. Mr.	
and Bylaws. <i>Id</i> . (Bylaws,	0000 8 702)	Atallah's own	
Art. IV, § 3).		understanding of the	
- · • • • - /·		ICANN Bylaws is not	
		speculative, but a subject	
		Mr. Atallah has personal	
		knowledge of.	
	5. Improper Opinion		
	Testimony (Evid.	Opinion Testimony: Mr.	
	Code	Atallah is not giving	
	§702)	opinion testimony. Even	
		if he were, Mr. Atallah is	
		qualified to testify, based	

		on his knowledge and experience demonstrated by his testimony at ¶ 1, of the accountability mechanisms provided by ICANN's Bylaws.	
Atallah Declaration	DCA Objection	ICANN's Response	Court's Ruling
¶7: The Bylaws provide for	1. Best Evidence	Best Evidence. Mr.	
the IRP panel to issue a written determination	Rule (Evid. Code § 1520)	Atallah's statement is not offered to prove the	
"declar[ing] whether an		contents of a writing. Mr.	
action or inaction of the Board was inconsistent with		Atallah's testimony is based on his personal	
the Articles of Incorporation or Bylaws" and		knowledge of the provisions in ICANN's	
"recommend[ing] that the		bylaws relating to the	
Board stay any action or decision, or that the Board		IRP Panel and the ICANN Board's	
take any interim action, until such time as the Board		consideration of an IRP Panel determination. A	
reviews and acts upon the		true and correct copy of	
opinion of the IRP." Bekele Decl., Ex. 4 (Bylaws, Art.	2. Lacks Foundation (Evid. Code § 403)	the ICANN Bylaws is in the record (Bekele Decl.,	
IV, § 3.11). The ICANN	(Evia. Code § 403)	Ex. 4.)	
Board then considers and acts on the determination.	3. Lacks Personal Knowledge (Evid.	Foundation/Personal	
Id. (Bylaws, Art. IV, §	Code § 702)	Knowledge. Mr. Atallah	
3.21).		laid the foundation for his testimony. Atallah	
		testified that he is the	
		President, Global Domains Division, for	
		ICANN (Atallah Decl. ¶	
		1.) As such, he has personal knowledge of	
	4. Speculation (Evid.	ICANN's bylaws relating	
	Code § 702)	to the IRP Panel and the ICANN Board's	
		consideration of an IRP Panel determination.	
		Panel determination.	
		Speculation. Mr. Atallah's own	
	5. Improper Opinion	understanding of	
	Testimony (Evid. Code	ICANN's bylaws relating to the IRP Panel and the	
	§702)	ICANN Board's	
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1			consideration of an IRP	
2			Panel determination is	
-			not speculative, but a	
3			subject Mr. Atallah has	
			personal knowledge of.	
4				
5			Opinion Testimony: Mr.	
۱			Atallah is not giving	
6			opinion testimony. Even if he were, Mr. Atallah is	
_			qualified to testify, based	
7			on his knowledge and	
8			experience demonstrated	
			by his testimony at ¶ 1,	
9			about ICANN's bylaws	
10			relating to the IRP Panel	
10			and the ICANN Board's	
11			consideration of an IRP	
			Panel determination.	
12	Atallah Declaration	DCA Objection	ICANN's Response	Court's
13	¶Q. I are informed and	1 Immuna Oninian	Opinion Testimony: Mr.	Ruling
	¶8: I am informed and believe that prior to the	1. Improper Opinion Testimony (Evid.	Atallah is not giving	
14	opening of the New gTLD	Code	opinion testimony. Even	
15	Program application period,	§702)	if he were, Mr. Atallah is	
	only one IRP had resulted in	3 · /	qualified to testify, based	-
16	a written determination <i>ICM</i>		on his knowledge and	
17	Registry, LLC v. ICANN.		experience demonstrated	
17	The ICM Panel declared that		by his testimony at ¶ 1,	
18	the determinations of IRP		that only one IRP had	
	panels were not binding on		resulted in a written	
19	ICANN's Board. Attached		determination prior to the	
20	hereto as Exhibit E is a true		opening of the New	
20	and correct copy of an		gTLD Program.	
21	excerpt of the Final		F 1.4'. /D	
22	Declaration of the <i>ICM</i> Panel.	2. Lacks Foundation (Evid. Code § 403)	Foundation/Personal Knowledge. Mr. Atallah	
22	I FARCI			1
	ranci.	(Evia: Code § 105)	1	·
23	ranet.	(Evia. Code y 105)	laid the foundation for his testimony. Atallah	
	ranet.	(Bvid. Code § 103)	laid the foundation for	
23 24	ranet.	3. Lacks Personal	laid the foundation for his testimony. Atallah testified that he is the President, Global	
24	ranet.	, , , , , , , , , , , , , , , , , , ,	laid the foundation for his testimony. Atallah testified that he is the President, Global Domains Division, for	
	ranet.	3. Lacks Personal	laid the foundation for his testimony. Atallah testified that he is the President, Global Domains Division, for ICANN (Atallah Decl. ¶	
24	ranet.	3. Lacks Personal Knowledge (Evid.	laid the foundation for his testimony. Atallah testified that he is the President, Global Domains Division, for ICANN (Atallah Decl. ¶ 1.) As such, he has	
<ul><li>24</li><li>25</li><li>26</li></ul>	ranet.	3. Lacks Personal Knowledge (Evid.	laid the foundation for his testimony. Atallah testified that he is the President, Global Domains Division, for ICANN (Atallah Decl. ¶ 1.) As such, he has personal knowledge of	
24 25	ranet.	3. Lacks Personal Knowledge (Evid.	laid the foundation for his testimony. Atallah testified that he is the President, Global Domains Division, for ICANN (Atallah Decl. ¶ 1.) As such, he has personal knowledge of past IRP written	
<ul><li>24</li><li>25</li><li>26</li></ul>	ranet.	3. Lacks Personal Knowledge (Evid.	laid the foundation for his testimony. Atallah testified that he is the President, Global Domains Division, for ICANN (Atallah Decl. ¶ 1.) As such, he has personal knowledge of	
<ul><li>24</li><li>25</li><li>26</li><li>27</li></ul>		3. Lacks Personal Knowledge (Evid. Code § 702)	laid the foundation for his testimony. Atallah testified that he is the President, Global Domains Division, for ICANN (Atallah Decl. ¶ 1.) As such, he has personal knowledge of past IRP written	
<ul><li>24</li><li>25</li><li>26</li><li>27</li></ul>	NAI-1502335553v1	3. Lacks Personal Knowledge (Evid. Code § 702)	laid the foundation for his testimony. Atallah testified that he is the President, Global Domains Division, for ICANN (Atallah Decl. ¶ 1.) As such, he has personal knowledge of past IRP written	<b>АТАГІАН</b>

1		4. Lack of	Lack of Completeness.	
		Completeness	Evidence Code § 365	
2		(Evid. Code § 356)	merely states, in relevant	
3			part, that "[w]here part of	
			an act, declaration,	
4			conversation, or writing	
_			is given in evidence by	
5		5. Best Evidence	one party, the whole on	
6		Rule (Evid. Code §	the same subject may be	
Ĭ		1520)	inquired into by an	
7			adverse party[.]" Mr.	
			Atallah's declaration	
8			references an excerpt	
9			from an IRP Final	
			Declaration by the ICM	
10			panel. DCA's objection	
,			does not go to admissibility. At most,	
11			DCA should offer any	
12			other portions of the	
12			referenced declaration it	
13			feels should be	
			considered, which it has	
14			not done here.	
15				
			Best Evidence. Mr.	
16			Atallah's statement is not	
			offered to prove the	
17			contents of a writing. Mr.	
18			Atallah's testimony is	
			based on his personal	
19			knowledge of past IRP	
20			written declarations. A	
20			true and correct copy of an excerpt of the	
21			Final Declaration of the	
			ICM Panel is in the	
22			record (Atallah Decl.,	
23			Exhibit E.)	
	Atallah Declaration	DCA Objection	ICANN's Response	Court's
24				Ruling
25	¶9: To my knowledge,	1. Improper Opinion	Opinion Testimony: Mr.	
2.	ICANN has never	Testimony (Evid.	Atallah is not giving	
26	represented that IRPs are binding. Instead, ICANN	Code §702)	opinion testimony. Even if he were, Mr. Atallah is	
27	has consistently argued that	8102)	qualified to testify, based	
	IRP declarations are not		on his knowledge and	
28	binding.		experience demonstrated	
	NAI-1502335553v1	8		<u> </u>
	ICANN'S RESPONSES TO	DCA'S OR IECTIONS TO	O THE DECLARATION OF A.	ATALLAH

1			by his testimony at ¶ 1,	
2			that ICANN has	
			in consistently argued that IRP declarations are not	
3			binding.	
4			oag.	
_			Foundation. Mr. Atallah	
5		2. Lacks Foundation	laid the foundation for	
6		(Evid. Code § 403)	his testimony. Atallah	
			testified that he is the President, Global	
7			Domains Division, for	
8			ICANN (Atallah Decl. ¶	
			1.) As such, he has	
9			knowledge of ICANN's	
10			past and present representations with	
11			regard to IRPs.	
11			1.0841.4 10 114 5.	
12		3. Hearsay (Evid.	Hearsay. Mr. Atallah's	
13		Code § 1200, et	testimony is not hearsay	
13		seq.)	as no "statement" is	
14			offered to prove the truth of the matter stated.	
15			Rather, the	
13			testimony represents Mr.	
16			Atallah's testimony of	:
17			events that he perceived	
			during his employment with ICANN.	
18		DOLOT:		Court's
19	Atallah Declaration	DCA Objection	ICANN's Response	Ruling
20	¶10: In the case of the $DCA$	1. Lacks Foundation	Foundation. Mr. Atallah	
20	IRP, the DCA Panel	(Evid. Code § 403)	laid the foundation for	
21	declared that its decision would be binding on		his testimony. Atallah testified that he is the	
22	ICANN's Board. But the		President, Global	
22	question of whether the		Domains Division, for	
23	Panel's declaration was or		ICANN (Atallah Decl. ¶	
24	was not legally binding		1.) As such, he has	
1	became a moot issue once ICANN's Board elected to		knowledge of the DCA IRP Panel's decision and	
25	adopt all of the DCA		the ICANN Board's	
26	Panel's recommendations,		election to adopt the	
	contrary to the		DCA Panel's	
27	representations in Plaintiff's		recommendations.	
28	Motion for Preliminary		Deat Friday - Ma	
	Injunction. NAI-1502335553v1	9	Best Evidence. Mr.	
		•	O THE DECLARATION OF A.	ATALLAH
j	ICAMI S RESTURSES IC	DEA 3 OBJECTIONS I	O THE DECLARATION OF A.	MINDUMII

			is in the record (Atallah Decl., Exhibit F.)	
			adopting the <i>DCA</i> Panel's recommendations	
			,	
		3. Improper Opinion Testimony (Evid.	Opinion Testimony: Mr. Atallah is not giving	
		Code §702)	opinion testimony. Even if he were, Mr. Atallah is	
		9702)	qualified to testify, based	
			on his knowledge and experience demonstrated	
			by his testimony at ¶ 1, of the DCA Panel's	
			decision and the ICANN	
	i		Board's election to adopt the DCA Panel's	
			recommendations.	
		4. Hearsay (Evid.	Hearsay. Mr. Atallah's	
		Code § 1200, et	testimony is not hearsay	
		seq.)	as no "statement" is offered to prove the truth	
			of the matter stated.	
			Rather, the testimony represents Mr.	
			Atallah's testimony of	
			events that he perceived during his employment with ICANN.	
Atallah	Declaration	DCA Objection	ICANN's Response	Court's Ruling

1	¶11: Specifically, on July 9,	1. Best Evidence	Best Evidence. Mr.	
2	2015, the <i>DCA</i> Panel issued	Rule (Evid. Code §	Atallah's statement is not	
2	its Final Declaration. Bekele	1520)	offered to prove the	
3	Decl., Ex. 1. The DCA Panel		contents of a writing. Mr.	
	determined that ICANN's		Atallah's testimony is	
4	Board had violated		based on his personal	
_	ICANN's Articles of		knowledge of the DCA	
5	Incorporation and Bylaws		IRP Panel's Final	
6	by accepting the GAC's		Declaration and	
	consensus advice that		recommendation. A true	
7	Plaintiff's application		and correct copy of the	
	for .AFRICA		DCA Panel's Declaration	
8	("Application") should not proceed. The <i>DCA</i> Panel		is in the record (Bekele	
9	therefore recommended that		Decl., Ex. 1.)	
	"ICANN continue to refrain	2. Lacks Personal	Personal Knowledge. Mr.	
10	from delegating	Knowledge (Evid.	Atallah testified that he is	
1,	the .AFRICA gTLD and	Code § 720)	the President, Global	
11	permit [Plaintiff]'s	2000 8 720)	Domains Division, for	
12	application to proceed		ICANN (Atallah Decl. ¶	
	through the remainder of the		1.) As such, he has	
13	new gTLD application		personal knowledge of	
14	process." Bekele Decl., Ex.		the DCA IRP Panel's	
14	1 ¶ 149.		Final Declaration and	
15			recommendation.	
- 41				
	Atallah Declaration	DCA Objection	ICANN's Response	Court's
16	Atallah Declaration	DCA Objection	ICANN's Response	Court's Ruling
	¶12: ICANN's Board	1. Improper Opinion	Opinion Testimony: Mr.	I
17	¶12: ICANN's Board promptly considered and	1. Improper Opinion Testimony (Evid.	Opinion Testimony: Mr. Atallah is not giving	I
	¶12: ICANN's Board promptly considered and adopted each of the <i>DCA</i>	I. Improper Opinion     Testimony (Evid.     Code	Opinion Testimony: Mr. Atallah is not giving opinion testimony. Even	I
17 18	¶12: ICANN's Board promptly considered and adopted each of the <i>DCA</i> Panel's recommendations.	1. Improper Opinion Testimony (Evid.	Opinion Testimony: Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is	I
17	¶12: ICANN's Board promptly considered and adopted each of the <i>DCA</i> Panel's recommendations. On July 16, 2015, the Board	I. Improper Opinion     Testimony (Evid.     Code	Opinion Testimony: Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based	I
17 18	¶12: ICANN's Board promptly considered and adopted each of the <i>DCA</i> Panel's recommendations. On July 16, 2015, the Board resolved to "continue to	I. Improper Opinion     Testimony (Evid.     Code	Opinion Testimony: Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and	l I
17 18 19 20	¶12: ICANN's Board promptly considered and adopted each of the <i>DCA</i> Panel's recommendations. On July 16, 2015, the Board resolved to "continue to refrain from delegating	I. Improper Opinion     Testimony (Evid.     Code	Opinion Testimony: Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and experience demonstrated	l I
17 18 19	¶12: ICANN's Board promptly considered and adopted each of the <i>DCA</i> Panel's recommendations. On July 16, 2015, the Board resolved to "continue to refrain from delegating the .AFRICA gTLD,"	I. Improper Opinion     Testimony (Evid.     Code	Opinion Testimony: Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and	l I
17 18 19 20 21	¶12: ICANN's Board promptly considered and adopted each of the <i>DCA</i> Panel's recommendations. On July 16, 2015, the Board resolved to "continue to refrain from delegating the .AFRICA gTLD," "permit [Plaintiff's]	I. Improper Opinion     Testimony (Evid.     Code	Opinion Testimony: Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and experience demonstrated by his testimony at ¶ 1, that the ICANN Board	l I
17 18 19 20	¶12: ICANN's Board promptly considered and adopted each of the <i>DCA</i> Panel's recommendations. On July 16, 2015, the Board resolved to "continue to refrain from delegating the .AFRICA gTLD," "permit [Plaintiff's] application to proceed	I. Improper Opinion     Testimony (Evid.     Code	Opinion Testimony: Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and experience demonstrated by his testimony at ¶ 1,	l I
17 18 19 20 21	¶12: ICANN's Board promptly considered and adopted each of the <i>DCA</i> Panel's recommendations. On July 16, 2015, the Board resolved to "continue to refrain from delegating the .AFRICA gTLD," "permit [Plaintiff's]	I. Improper Opinion     Testimony (Evid.     Code	Opinion Testimony: Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and experience demonstrated by his testimony at ¶ 1, that the ICANN Board adopted each of the DCA	l I
17 18 19 20 21 22 23	¶12: ICANN's Board promptly considered and adopted each of the <i>DCA</i> Panel's recommendations. On July 16, 2015, the Board resolved to "continue to refrain from delegating the .AFRICA gTLD," "permit [Plaintiff's] application to proceed through the remainder of the	I. Improper Opinion     Testimony (Evid.     Code	Opinion Testimony: Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and experience demonstrated by his testimony at ¶ 1, that the ICANN Board adopted each of the DCA Panel's	l I
17 18 19 20 21 22	¶12: ICANN's Board promptly considered and adopted each of the <i>DCA</i> Panel's recommendations. On July 16, 2015, the Board resolved to "continue to refrain from delegating the .AFRICA gTLD," "permit [Plaintiff's] application to proceed through the remainder of the new gTLD application	I. Improper Opinion     Testimony (Evid.     Code	Opinion Testimony: Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and experience demonstrated by his testimony at ¶ 1, that the ICANN Board adopted each of the DCA Panel's recommendations.  Foundation. Mr. Atallah	l I
17 18 19 20 21 22 23 24	¶12: ICANN's Board promptly considered and adopted each of the <i>DCA</i> Panel's recommendations. On July 16, 2015, the Board resolved to "continue to refrain from delegating the .AFRICA gTLD," "permit [Plaintiff's] application to proceed through the remainder of the new gTLD application process," and "reimburse DCA for the costs of the IRP." Attached hereto as	1. Improper Opinion Testimony (Evid. Code §702)	Opinion Testimony: Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and experience demonstrated by his testimony at ¶ 1, that the ICANN Board adopted each of the DCA Panel's recommendations.  Foundation. Mr. Atallah laid the foundation for	l I
17 18 19 20 21 22 23 24 25	¶12: ICANN's Board promptly considered and adopted each of the <i>DCA</i> Panel's recommendations. On July 16, 2015, the Board resolved to "continue to refrain from delegating the .AFRICA gTLD," "permit [Plaintiff's] application to proceed through the remainder of the new gTLD application process," and "reimburse DCA for the costs of the IRP." Attached hereto as <b>Exhibit F</b> is a true and	1. Improper Opinion Testimony (Evid. Code §702)	Opinion Testimony: Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and experience demonstrated by his testimony at ¶ 1, that the ICANN Board adopted each of the DCA Panel's recommendations.  Foundation. Mr. Atallah laid the foundation for his testimony. Atallah	l I
17 18 19 20 21 22 23 24	¶12: ICANN's Board promptly considered and adopted each of the <i>DCA</i> Panel's recommendations. On July 16, 2015, the Board resolved to "continue to refrain from delegating the .AFRICA gTLD," "permit [Plaintiff's] application to proceed through the remainder of the new gTLD application process," and "reimburse DCA for the costs of the IRP." Attached hereto as <b>Exhibit F</b> is a true and correct copy of ICANN	1. Improper Opinion Testimony (Evid. Code §702)	Opinion Testimony: Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and experience demonstrated by his testimony at ¶ 1, that the ICANN Board adopted each of the DCA Panel's recommendations.  Foundation. Mr. Atallah laid the foundation for his testimony. Atallah testified that he is the	l I
17 18 19 20 21 22 23 24 25 26	¶12: ICANN's Board promptly considered and adopted each of the <i>DCA</i> Panel's recommendations. On July 16, 2015, the Board resolved to "continue to refrain from delegating the .AFRICA gTLD," "permit [Plaintiff's] application to proceed through the remainder of the new gTLD application process," and "reimburse DCA for the costs of the IRP." Attached hereto as <b>Exhibit F</b> is a true and correct copy of ICANN Board Resolutions	1. Improper Opinion Testimony (Evid. Code §702)	Opinion Testimony: Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and experience demonstrated by his testimony at ¶ 1, that the ICANN Board adopted each of the DCA Panel's recommendations.  Foundation. Mr. Atallah laid the foundation for his testimony. Atallah testified that he is the President, Global	l I
17 18 19 20 21 22 23 24 25	¶12: ICANN's Board promptly considered and adopted each of the <i>DCA</i> Panel's recommendations. On July 16, 2015, the Board resolved to "continue to refrain from delegating the .AFRICA gTLD," "permit [Plaintiff's] application to proceed through the remainder of the new gTLD application process," and "reimburse DCA for the costs of the IRP." Attached hereto as <b>Exhibit F</b> is a true and correct copy of ICANN Board Resolutions 2015.07.16.01-05, adopting	1. Improper Opinion Testimony (Evid. Code §702)	Opinion Testimony: Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and experience demonstrated by his testimony at ¶ 1, that the ICANN Board adopted each of the DCA Panel's recommendations.  Foundation. Mr. Atallah laid the foundation for his testimony. Atallah testified that he is the President, Global Domains Division, for	l I
17 18 19 20 21 22 23 24 25 26	¶12: ICANN's Board promptly considered and adopted each of the <i>DCA</i> Panel's recommendations. On July 16, 2015, the Board resolved to "continue to refrain from delegating the .AFRICA gTLD," "permit [Plaintiff's] application to proceed through the remainder of the new gTLD application process," and "reimburse DCA for the costs of the IRP." Attached hereto as <b>Exhibit F</b> is a true and correct copy of ICANN Board Resolutions 2015.07.16.01-05, adopting the <i>DCA</i> Panel's	1. Improper Opinion Testimony (Evid. Code §702)	Opinion Testimony: Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and experience demonstrated by his testimony at ¶ 1, that the ICANN Board adopted each of the DCA Panel's recommendations.  Foundation. Mr. Atallah laid the foundation for his testimony. Atallah testified that he is the President, Global Domains Division, for ICANN (Atallah Decl. ¶	l I
17 18 19 20 21 22 23 24 25 26 27	¶12: ICANN's Board promptly considered and adopted each of the <i>DCA</i> Panel's recommendations. On July 16, 2015, the Board resolved to "continue to refrain from delegating the .AFRICA gTLD," "permit [Plaintiff's] application to proceed through the remainder of the new gTLD application process," and "reimburse DCA for the costs of the IRP." Attached hereto as <b>Exhibit F</b> is a true and correct copy of ICANN Board Resolutions 2015.07.16.01-05, adopting the <i>DCA</i> Panel's recommendations.	1. Improper Opinion Testimony (Evid. Code §702)  2. Lacks Foundation (Evid. Code § 403)	Opinion Testimony: Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and experience demonstrated by his testimony at ¶ 1, that the ICANN Board adopted each of the DCA Panel's recommendations.  Foundation. Mr. Atallah laid the foundation for his testimony. Atallah testified that he is the President, Global Domains Division, for	l I
17 18 19 20 21 22 23 24 25 26 27	¶12: ICANN's Board promptly considered and adopted each of the <i>DCA</i> Panel's recommendations. On July 16, 2015, the Board resolved to "continue to refrain from delegating the .AFRICA gTLD," "permit [Plaintiff's] application to proceed through the remainder of the new gTLD application process," and "reimburse DCA for the costs of the IRP." Attached hereto as <b>Exhibit F</b> is a true and correct copy of ICANN Board Resolutions 2015.07.16.01-05, adopting the <i>DCA</i> Panel's recommendations.	1. Improper Opinion Testimony (Evid. Code §702)  2. Lacks Foundation (Evid. Code § 403)	Opinion Testimony: Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and experience demonstrated by his testimony at ¶ 1, that the ICANN Board adopted each of the DCA Panel's recommendations.  Foundation. Mr. Atallah laid the foundation for his testimony. Atallah testified that he is the President, Global Domains Division, for ICANN (Atallah Decl. ¶	Ruling

1			knowledge of the	
2			ICANN Board's consideration and	
,			adoption of the DCA IRP	
3			Panel's recommendations	
4			and the ICANN Board's	
۔ ا			resolution.	
5			Rest Evidence Mr	
6			Best Evidence. Mr. Atallah's statement is not	
7			offered to prove the	
′∥		3. Best Evidence	contents of a writing. Mr.	
8		Rule (Evid. Code §	Atallah's testimony is	
9		1520)	based on his personal knowledge of the	
			ICANN Board's	
10			consideration and	
11			adoption of the DCA IRP	
			Panel's recommendations	
12			and the ICANN Board's resolution. A true and	
13			correct copy of ICANN	
			Board Resolutions	
14			2015.07.16.01-05,	
			adopting the DCA	
15				
			Panel's recommendations	
15 16			Panel's recommendations is in the record (Atallah	
	Atallah Declaration	DCA Objection	Panel's recommendations is in the record (Atallah Decl., Exhibit F.)	Court's
16	Atallah Declaration	DCA Objection	Panel's recommendations is in the record (Atallah Decl., Exhibit F.)  ICANN's Response	Court's Ruling
16 17 18	¶13: In the event ICANN is	1. Improper Opinion	Panel's recommendations is in the record (Atallah Decl., Exhibit F.)  ICANN's Response  Opinion Testimony: Mr.	
16 17	¶13: In the event ICANN is permitted to delegate	1. Improper Opinion Testimony (Evid.	Panel's recommendations is in the record (Atallah Decl., Exhibit F.)  ICANN's Response  Opinion Testimony: Mr. Atallah is not giving	
16 17 18	¶13: In the event ICANN is permitted to delegate the .AFRICA gTLD to	Improper Opinion     Testimony (Evid. Code	Panel's recommendations is in the record (Atallah Decl., Exhibit F.)  ICANN's Response  Opinion Testimony: Mr.	
16 17 18 19 20	¶13: In the event ICANN is permitted to delegate	1. Improper Opinion Testimony (Evid.	Panel's recommendations is in the record (Atallah Decl., Exhibit F.)  ICANN's Response  Opinion Testimony: Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based	
16 17 18 19	¶13: In the event ICANN is permitted to delegate the .AFRICA gTLD to ZACR, a transfer or assignment of the gTLD in the future would still be	Improper Opinion     Testimony (Evid. Code	Panel's recommendations is in the record (Atallah Decl., Exhibit F.)  ICANN's Response  Opinion Testimony: Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and	
16 17 18 19 20	¶13: In the event ICANN is permitted to delegate the .AFRICA gTLD to ZACR, a transfer or assignment of the gTLD in the future would still be possible, feasible and	Improper Opinion     Testimony (Evid. Code	Panel's recommendations is in the record (Atallah Decl., Exhibit F.)  ICANN's Response  Opinion Testimony: Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and experience demonstrated	
16 17 18 19 20 21 22	¶13: In the event ICANN is permitted to delegate the .AFRICA gTLD to ZACR, a transfer or assignment of the gTLD in the future would still be possible, feasible and consistent with ICANN's	Improper Opinion     Testimony (Evid. Code	Panel's recommendations is in the record (Atallah Decl., Exhibit F.)  ICANN's Response  Opinion Testimony: Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and experience demonstrated by his testimony at ¶ 1,	
16 17 18 19 20 21 22 23	¶13: In the event ICANN is permitted to delegate the .AFRICA gTLD to ZACR, a transfer or assignment of the gTLD in the future would still be possible, feasible and consistent with ICANN's previous conduct. In fact,	Improper Opinion     Testimony (Evid. Code	Panel's recommendations is in the record (Atallah Decl., Exhibit F.)  ICANN's Response  Opinion Testimony: Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and experience demonstrated by his testimony at ¶ 1, that a transfer of	
16 17 18 19 20 21 22	¶13: In the event ICANN is permitted to delegate the .AFRICA gTLD to ZACR, a transfer or assignment of the gTLD in the future would still be possible, feasible and consistent with ICANN's	Improper Opinion     Testimony (Evid. Code	Panel's recommendations is in the record (Atallah Decl., Exhibit F.)  ICANN's Response  Opinion Testimony: Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and experience demonstrated by his testimony at ¶ 1, that a transfer of the .AFRICA gTLD post-delegation would be	
16 17 18 19 20 21 22 23	¶13: In the event ICANN is permitted to delegate the .AFRICA gTLD to ZACR, a transfer or assignment of the gTLD in the future would still be possible, feasible and consistent with ICANN's previous conduct. In fact, over forty gTLDs have had their registry contracts transferred from one registry	Improper Opinion     Testimony (Evid. Code	Panel's recommendations is in the record (Atallah Decl., Exhibit F.)  ICANN's Response  Opinion Testimony: Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and experience demonstrated by his testimony at ¶ 1, that a transfer of the .AFRICA gTLD post-	
16 17 18 19 20 21 22 23 24 25	¶13: In the event ICANN is permitted to delegate the .AFRICA gTLD to ZACR, a transfer or assignment of the gTLD in the future would still be possible, feasible and consistent with ICANN's previous conduct. In fact, over forty gTLDs have had their registry contracts transferred from one registry operator to a different	Improper Opinion     Testimony (Evid. Code	Panel's recommendations is in the record (Atallah Decl., Exhibit F.)  ICANN's Response  Opinion Testimony: Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and experience demonstrated by his testimony at ¶ 1, that a transfer of the .AFRICA gTLD post-delegation would be possible.	
16 17 18 19 20 21 22 23 24	¶13: In the event ICANN is permitted to delegate the .AFRICA gTLD to ZACR, a transfer or assignment of the gTLD in the future would still be possible, feasible and consistent with ICANN's previous conduct. In fact, over forty gTLDs have had their registry contracts transferred from one registry operator to a different registry operator, <i>i.e.</i> ,	1. Improper Opinion Testimony (Evid. Code §702)	Panel's recommendations is in the record (Atallah Decl., Exhibit F.)  ICANN's Response  Opinion Testimony: Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and experience demonstrated by his testimony at ¶ 1, that a transfer of the .AFRICA gTLD post-delegation would be possible.  Foundation/Personal	
16 17 18 19 20 21 22 23 24 25	¶13: In the event ICANN is permitted to delegate the .AFRICA gTLD to ZACR, a transfer or assignment of the gTLD in the future would still be possible, feasible and consistent with ICANN's previous conduct. In fact, over forty gTLDs have had their registry contracts transferred from one registry operator to a different registry operator, i.e., transferred for operation by	1. Improper Opinion Testimony (Evid. Code §702)  2. Lacks Foundation	Panel's recommendations is in the record (Atallah Decl., Exhibit F.)  ICANN's Response  Opinion Testimony: Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and experience demonstrated by his testimony at ¶ 1, that a transfer of the .AFRICA gTLD post-delegation would be possible.	
16 17 18 19 20 21 22 23 24 25 26 27	¶13: In the event ICANN is permitted to delegate the .AFRICA gTLD to ZACR, a transfer or assignment of the gTLD in the future would still be possible, feasible and consistent with ICANN's previous conduct. In fact, over forty gTLDs have had their registry contracts transferred from one registry operator to a different registry operator, <i>i.e.</i> ,	1. Improper Opinion Testimony (Evid. Code §702)	Panel's recommendations is in the record (Atallah Decl., Exhibit F.)  ICANN's Response  Opinion Testimony: Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and experience demonstrated by his testimony at ¶ 1, that a transfer of the .AFRICA gTLD post-delegation would be possible.  Foundation/Personal Knowledge. Mr. Atallah laid the foundation for his testimony. Atallah	
16 17 18 19 20 21 22 23 24 25 26	¶13: In the event ICANN is permitted to delegate the .AFRICA gTLD to ZACR, a transfer or assignment of the gTLD in the future would still be possible, feasible and consistent with ICANN's previous conduct. In fact, over forty gTLDs have had their registry contracts transferred from one registry operator to a different registry operator, i.e., transferred for operation by a different registry operator than the operator when the registry contract was	1. Improper Opinion Testimony (Evid. Code §702)  2. Lacks Foundation (Evid. Code § 403)	Panel's recommendations is in the record (Atallah Decl., Exhibit F.)  ICANN's Response  Opinion Testimony: Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and experience demonstrated by his testimony at ¶ 1, that a transfer of the .AFRICA gTLD post-delegation would be possible.  Foundation/Personal Knowledge. Mr. Atallah laid the foundation for	
16 17 18 19 20 21 22 23 24 25 26 27	¶13: In the event ICANN is permitted to delegate the .AFRICA gTLD to ZACR, a transfer or assignment of the gTLD in the future would still be possible, feasible and consistent with ICANN's previous conduct. In fact, over forty gTLDs have had their registry contracts transferred from one registry operator to a different registry operator, i.e., transferred for operation by a different registry operator than the operator when the registry contract was	1. Improper Opinion Testimony (Evid. Code §702)  2. Lacks Foundation (Evid. Code § 403)	Panel's recommendations is in the record (Atallah Decl., Exhibit F.)  ICANN's Response  Opinion Testimony: Mr. Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and experience demonstrated by his testimony at ¶ 1, that a transfer of the .AFRICA gTLD post-delegation would be possible.  Foundation/Personal Knowledge. Mr. Atallah laid the foundation for his testimony. Atallah	Ruling

,				The state of the s
1	initially executed. These transfers have occurred for a	4. Lacks Personal	President, Global Domains Division, for	
2	number of reasons, and	Knowledge (Evid. Code § 702)	ICANN (Atallah Decl. ¶	
3	transfers are not limited to	(3, 7, 02)	1.) As such, he has	
	situations where a registry's		personal knowledge of	
4	contract with ICANN was		the possibility of a	
5	expiring.		transfer or assignment of	
1			the .AFRICA gTLD after delegation and of the	
6			existence of other gTLDs	
7			that have had their	
			registry contracts	
8			transferred.	
9		3. Speculation (Evid.	Speculation. Mr.	
10		Code § 702)	Atallah's own	
10			understanding of the	
11			possibility of a transfer or assignment of	
12			the .AFRICA gTLD after	
			delegation and the	
13			existence of other gTLDs	
14			that have had their	
1.5			registry contracts transferred is not	
15			speculative, but a subject	
16			Mr. Atallah has personal	
17			knowledge of.	
18	Atallah Declaration	DCA Objection	ICANN's Response	Court's Ruling
19	¶14: Nor is there any truth	1 1	O i i i a Tarki a a a a Ma	Runng
ı		1. Improper Opinion	Opinion Testimony: Mr.	
	to DCA's argument in its	1. Improper Opinion Testimony (Evid.	Atallah is not giving	
20	to DCA's argument in its Motion (at p. 12) that "the	Testimony (Evid. Code	Atallah is not giving opinion testimony. Even	
20   21	to DCA's argument in its Motion (at p. 12) that "the U.S. government's ties with	Testimony (Evid.	Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is	
21	to DCA's argument in its Motion (at p. 12) that "the	Testimony (Evid. Code	Atallah is not giving opinion testimony. Even	
21 22	to DCA's argument in its Motion (at p. 12) that "the U.S. government's ties with ICANN ceased" and therefore "the current procedure for gTLD	Testimony (Evid. Code	Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and experience demonstrated	
21	to DCA's argument in its Motion (at p. 12) that "the U.S. government's ties with ICANN ceased" and therefore "the current procedure for gTLD redelegation is uncertain."	Testimony (Evid. Code	Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and experience demonstrated by his testimony at ¶ 1,	
21 22	to DCA's argument in its Motion (at p. 12) that "the U.S. government's ties with ICANN ceased" and therefore "the current procedure for gTLD redelegation is uncertain." In fact, nothing about the	Testimony (Evid. Code	Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and experience demonstrated by his testimony at ¶ 1, that the transition of the	
21 22 23 24	to DCA's argument in its Motion (at p. 12) that "the U.S. government's ties with ICANN ceased" and therefore "the current procedure for gTLD redelegation is uncertain." In fact, nothing about the recent transition of the	Testimony (Evid. Code	Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and experience demonstrated by his testimony at ¶ 1, that the transition of the IANA functions from the	
21 22 23	to DCA's argument in its Motion (at p. 12) that "the U.S. government's ties with ICANN ceased" and therefore "the current procedure for gTLD redelegation is uncertain." In fact, nothing about the	Testimony (Evid. Code	Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and experience demonstrated by his testimony at ¶ 1, that the transition of the IANA functions from the U.S. governt to ICANN has not had any effect on	
21 22 23 24	to DCA's argument in its Motion (at p. 12) that "the U.S. government's ties with ICANN ceased" and therefore "the current procedure for gTLD redelegation is uncertain." In fact, nothing about the recent transition of the Internet Assigned Numbers Authority ("IANA") functions from the United	Testimony (Evid. Code	Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and experience demonstrated by his testimony at ¶ 1, that the transition of the IANA functions from the U.S. governt to ICANN has not had any effect on the possibility to transfer	
21 22 23 24 25 26	to DCA's argument in its Motion (at p. 12) that "the U.S. government's ties with ICANN ceased" and therefore "the current procedure for gTLD redelegation is uncertain." In fact, nothing about the recent transition of the Internet Assigned Numbers Authority ("IANA") functions from the United States government to	Testimony (Evid. Code	Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and experience demonstrated by his testimony at ¶ 1, that the transition of the IANA functions from the U.S. governt to ICANN has not had any effect on the possibility to transfer the operation rights of a	
21 22 23 24 25 26 27	to DCA's argument in its Motion (at p. 12) that "the U.S. government's ties with ICANN ceased" and therefore "the current procedure for gTLD redelegation is uncertain." In fact, nothing about the recent transition of the Internet Assigned Numbers Authority ("IANA") functions from the United States government to ICANN has any effect	Testimony (Evid. Code	Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and experience demonstrated by his testimony at ¶ 1, that the transition of the IANA functions from the U.S. governt to ICANN has not had any effect on the possibility to transfer the operation rights of a new gTLD from one	
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21 22 23 24 25 26 27	to DCA's argument in its Motion (at p. 12) that "the U.S. government's ties with ICANN ceased" and therefore "the current procedure for gTLD redelegation is uncertain." In fact, nothing about the recent transition of the Internet Assigned Numbers Authority ("IANA") functions from the United States government to ICANN has any effect whatsoever upon the fact that it is possible to transfer  NAI-1502335553v1	Testimony (Evid. Code §702)	Atallah is not giving opinion testimony. Even if he were, Mr. Atallah is qualified to testify, based on his knowledge and experience demonstrated by his testimony at ¶ 1, that the transition of the IANA functions from the U.S. governt to ICANN has not had any effect on the possibility to transfer the operation rights of a new gTLD from one registry operator to	ATALLAH

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ICANN'S RESPONSES TO DCA'S OBJECTIONS TO THE DECLARATION OF A. ATALLAH

1		transferring operation
2		rights for a new gTLD from one registry
3		operation to another post- delegation.
4		
5		
6	Dated: December 21, 2016	Jones Day
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8		By: hull
9		Erin L. Burke
10		Attorneys for Defendant INTERNET CORPORATION FOR
11		ASSIGNED NAMES AND NUMBERS
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ICANN'S RESPONSES TO DCA'S OBJECTIONS TO THE DECLARATION OF A. ATALLAH

1	PROOF OF SERVICE					
2	I, Dia	I, Diane Sanchez, declare:				
3	I am a	I am a citizen of the United States and employed in Los Angeles County, California. I am				
4	over the age o	over the age of eighteen years and not a party to the within-entitled action. My business address				
5	is 555 South	is 555 South Flower Street, Fiftieth Floor, Los Angeles, California 90071.2300. On December				
6	21, 2016, I se	21, 2016, I served a copy of the within document(s):				
7	ICANN'S RESPONSES TO DCA'S EVIDENTIARY OBJECTIONS TO THE DECLARATION OF A. ATALLAH					
8						
by placing the document(s) listed above in a sealed envelogement fully prepaid, in the United States mail at Los Angeles, Canada forth below.						
11			I I			
12	×	by placing the document(s) listed above in a sealed Federal Express envelope and affixing a pre-paid air bill, and causing the envelope to be delivered to a Delivery Service agent for delivery.				
13 14	by personally delivering the doc address(es) set forth below.		nment(s) listed above to the person(s) at the			
15	×	by transmitting via e-mail or electronic transmission the document(s) listed above to the person(s) at the e-mail address(es) set forth below.				
16 17	Ethan J. Brown ethan@bnslawgroup.com Sara C. Colón sara@bnslawgroup.com Rowennakete "Kete" Barnes kete@bnsklaw.com BROWN NERI & SMITH LLP 11766 Wilshire Boulevard, Suite 1670		David W. Kesselman, Esq. Kesselman Brantly Stockinger LLP 1230 Rosecrans Ave, Suite 690			
18			Manhattan Beach, CA 90266 (310) 307-4556			
19			(310) 307-4570 fax dkesselman@kbslaw.com			
20			Via Email & Federal Express			
21	Los Angeles, California 90025 Via Email & Federal Express Telephone: (310) 593-9890					
22	Via Email & Federal Express					
23	I declare that I am employed in the office of a member of the bar of this court at whose					
24	direction the service was made.					
25	Executed on December 21, 2016, at Los Angeles, California.					
26			7			
27			Jeia La Sanchez  Diane Sanchez			
28			Diane Sanchez			

Proof of Service