

JURISDICTION SUBGROUP ICANN LITIGATION SUMMARY

DCA v. ICANN (Trial Courts)

Case Name:	DotConnectAfrica Trust v. ICANN
Parties: ¹	DotConnectAfrica Trust (DCA) (Plaintiff); ICANN (Defendant); Does 1-50 (these are as-yet unnamed Defendants). ZA Central Registry NPC named as defendant later.
Relationship of Parties:	DCA -non-profit of Mauritius (principal office Kenya; representative in California); ICANN -Cal./US Does – indeterminate. ZACR: South African.
Venue:	Superior Court of California; Los Angeles County
Choice of Law/Governing Law:	California
Case Began:	Jan. 20, 2016 (case filed)
Case Ended:	N/A
Causes of Action:	Against ICANN: Breach of contract; Intentional misrepresentation; Negligent misrepresentation; Negligence. Against all defendants including ICANN: Fraud and conspiracy to commit fraud; Unfair competition. Added later – Intentional interference with contract; Confirmation of IRP award and declaratory actions.
Issues Presented:	Causes of action relate to delegation of the .africa new gTLD.
Primary Relief?:	DCA sought a preliminary injunction twice in Cal. state court.
Outcome:	DCA's first request for a preliminary injunction was denied Dec. 22, 2016. Its second request was denied on Feb. 3, 2017.
Jurisdiction Contested? ²	No
Impact on our Work: ³	Unclear if any
Documents:	For a while this case, originally filed in Cal. state court, was removed on ICANN's motion to a US federal district court in Los Angeles and that federal judge issued a preliminary injunction barring ICANN from delegating .africa pending trial. Later, however, the federal judge ruled that ZACR was entitled to intervene and its intervention undermined so-called "diversity" jurisdiction in federal court – so in the same order the judge sent the case back to California state court.

Indicate whether each party is Plaintiff (P) or Defendant (D), or other status. Please also list non-party participants, such as Amicus Curiae. For example, challenge to venue, challenge to change of venue, challenge to governing law, challenge to application of "choice of law" jurisdiction. Please describe the outcome as well as the challenge.

Indicate whether the case had or will have an effect on ICANN's accountability mechanisms or the operation of ICANN's policies.

DCA v. ICANN (Appellate Court)

Case Name:	DotConnectAfrica Trust v. ICANN and ZACR (two consolidated appellate actions)
Parties:	DotConnectAfrica Trust (DCA) (Appellee); ICANN (Appellant); ZACR and Does 1-50 (Appellants). DotRegistry LLC filed Amicus brief in support of DCA.
Relationship of Parties:	DCA -non-profit of Mauritius (principal office Kenya; representative in California); ICANN -Cal./US; Does – indeterminate. ZACR: South African.
Case Venue:	U.S. Court of Appeals for the Ninth Circuit
State of Law/Governing Law:	California
Case Began:	May 11, 2016 (ICANN notice of appeal of preliminary injunction)
Case Ended:	Dec. 14, 2016.
Issues of Action:	Appeal against federal district court’s order of preliminary injunction barring ICANN from delegating the .africa string pending trial.
Issues Presented:	ICANN argued that DCA’s covenant not to sue in its application was valid and binding; and that DCA would suffer no irreparable harm without an injunction in place.
Primary Relief?:	N/A
Outcome:	Appeal dismissed on unopposed motions. Court denied ICANN’s request that the court reflect that the injunction is null and void.
Jurisdiction Contested?	ICANN noted to appeals court on Oct 21, 2016, that district court ruled that it lacked subject matter jurisdiction after ZACR was ruled an “indispensable” party to the action, thus eliminating diversity jurisdiction. ICANN argued the appeal was moot and sought dismissal. On Oct 31, DCA agreed that dismissal was proper but argued that the appeal court should not address the injunction as requested by ICANN.
Impact on our Work:	Unclear if any
Documents:	