

JURISDICTION SUBGROUP ICANN LITIGATION SUMMARY

1. DCA v. ICANN (Appellate Court)

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| Name of Case: | 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. |
| Citizenship of Parties: | DCA -non-profit of Mauritius (principal office Kenya; representative in California); ICANN -Cal./US; Does – indeterminate. ZACR: South African. |
| Court/Venue: | U.S. Court of Appeals for the Ninth Circuit |
| Choice of Law/Governing Law: | California |
| Date Case Began: | May 11, 2016 (ICANN notice of appeal of preliminary injunction) |
| Date Case Ended: | Dec. 14, 2016. |
| Causes 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. |
| Preliminary 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. |
| Was 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. |
| Effect on our Work: | Unclear if any |
| Key Documents: | |