IN THE SUPREME COURT OF MAURITIUS

(COMMERCIAL/BANKRUPTCY DIVISION)

On Thursday, 19th of June 2025

Before the Honourable M J Lau Yuk Poon, Judge

Court Room No.15

(Amended Minutes)

SC/COM/MOT/000442/2025

In the matter of:

The Internet Corporation for Assigned Names and Numbers

Applicant

v.

Mr. Gowtamsingh Dabee, FCCA ADIT MBA,
In his Capacity and position as Receiver of
African Network Information Centre (AfriNIC) Ltd (In Receivership)

Respondent

In the presence of:

African Network Information Centre (AfriNIC) Ltd (In Receivership)

Third- Party

The matter is digitally recorded and the transcript shall be the Official court record.

Mr. E. Ribot of Counsel appears together with Mr. D. Jhurry, of Counsel for the Petitioner instructed by Mr. Attorney P. D. Lallah, who is also in attendance.

Mr. M. Namdarkhan, of Counsel appears for the Respondent and the Third- Party, instructed by Mr. Attorney N. Ramasawmy, who is also in attendance.

The Applicant is represented by its Representative, Mr. Robert Ferrat.
The Respondent is in attendance.

At this stage, Mr. R. Gulbul, of Counsel and Mr. D. Ramdhur, Attorney-at-Law appear on the floor of the Court and state that they are both representing Cloud Innovation Ltd.
Mr. R. Gulbul further states that he is not a party to this case, however he is in attendance since he is aware that the matter is coming today and that he will intervene in the present matter after Counsel have addressed the Court.

However, Mr. Ribot objects to the motion of Mr. Gulbul.
Mr. Namdarkhan however has no objection to the motion of Mr. Gulbul.

Mr. R. Gulbul, of Counsel and Mr. Attorney Mr. D. Ramdhur are allowed to appear.

At this stage, Mr. Namdarkhan imparts.

Mr. Ribot puts in the Affidavits of Mr. John LeRoy Crain, Senior Vice President and Chief Technology Officer for ICANN and of Samantha Sara Eisner, the Deputy General Counsel for ICANN.

Exchange between the bench and the bar.

In light of all of the above, Court takes time to consider.
Case is maintained till 13hrs for Ruling to be delivered.



Case is called anew at 13hr.
Same appearances as earlier.

At this stage, Court delivers an Oral Ruling which reads as follows:

"Notwithstanding the fact that the applicant has no locus standi to enter such an application before this Court but having regards that its objective and aim is to ensure that there is a fair and free election for the board of AfriNIC to be constituted and that ICAAN principal objective is to ensure that the global internet remains secure, stable and operative, this Court has entertained this matter. I do not however lose foresight that AfriNIC is also a non-profit organization, member-based and is a regional internet registry which is responsible for the distribution of internet number resources for Africa and the Indian Ocean region.

Having heard all counsel in the present matter and taking into account that learned counsel for the respondent and third party has informed the Court that having regards to the prayers (i) and (iii) sought from the applicant, AfriNIC will issue a communique -

(i) to inform all resource members of the erroneous registration of Cloud Innovation Ltd as a registered member of AfriNic Ltd. AfriNIC Ltd is a company limited by guarantee, registered at the Registrar of Companies. As at date, needful has been done by the receiver to remove the name of Cloud Innovation Ltd as a registered member of AFrinic Ltd at the Registrar of Companies; and

(ii) to inform all resource members how the Nom Com has been set up in the spirit of the bylaws in the absence of a board at AfriNIC.

I find and is satisfied that the said communique will in fact satisfy what the applicant has sought in prayers (i) and (iii) as per its motion paper.

However, as regards the order (ii) sought by the applicant as per the motion paper, in relation to the immediate reconstitution of the Nomination Committee which the applicant is insisting upon in spite of the commnique, I find that it is inappropriate of the applicant and in so insisting, this will go against the objective of having a board constituted at AfriNIC and ICAAN will not be acting reasonably and responsibly.

Ex facie the affidavit of the applicant, the seeking of the dismantling of the NomCom is primarily linked and on the premise of the wrongful classification of Cloud Innovation Ltd registered as a member of AfriNIC at the Registrar of Companies when Cloud Innovation Ltd is simply a resource member.

Since this Court has been informed by counsel for the respondent and third party that there was a wrong classification of Cloud Innovation Ltd at the Registrar of Companies and that needful has been done by the receiver to remedy this, this can no longer be a sufficient and adequate reason to hold back an election and restart the whole process regarding the organisation and holding of the election of the board members of AfriNIC.

The e-voting election has already started. It is of common understanding that the holding of an election for a company with over 2000 resource members and having no functioning board is important and necessary for continuity, governance and its legitimacy. Afrinic has been operating in a vacuum without a board duly constituted and this state of affairs cannot perpetuate and can only be to the detriment of its members and the company.

Mindful of the fact that all resource members should have faith and be reassured of the process of the election being held and manned fairly and freely under the supervision of the receiver who himself has statutory duties and obligations as provided under the Insolvency Act, I find that the above communiques should dissipate any misapprehension that the resource members could have in the organisation and holding of the election of AfriNIC.

I therefore find that the order (ii) sought will go against the spirit and fundamentals of the holding of an election process to constitute the board of AfriNIC which will be responsible for guiding the mission of the organization and meeting its objectives.

I therefore order the respondent and AfriNIC to issue a communique by latest Friday 20 June 2025 at 1500 hours to -

(i) inform all resource members of the erroneous registration of Cloud Innovation Ltd as a registered member of AfriNic Ltd. AfriNIC Ltd is a company limited by guarantee, registered at the Registrar of Companies. As at date, needful has been done by the receiver to remove the name of Cloud Innovation Ltd as a registered member of AfriNic Ltd at the Registrar of Companies; and

(ii) inform all resource members how the Nom Com has been set up in the spirit of the bylaws in the absence of a board at AfriNIC.

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In the light of the above, the application is otherwise set aside but I shall not order costs as I consider that all parties before me have the main objectives that AfriNIC operates fully as it should be."

(Minutes of proceedings as per logsheet starts as from 11 00hrs to 11 13hrs and as from 13 00hrs to 13 05hrs in Court Room No.15)

[redacted]
Mrs. L. Drepaul
For Master & Registrar

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