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Press Release

Litigations and Supreme Court Orders concerning AFRINIC

July 26, 2021: We have noticed that there have been recent news, rumours, and debates over the litigations between Cloud Innovation Ltd ("CI") and AFRINIC, and AFRINIC's actions against CI about CI's AFRINIC membership and the corresponding number resources. This may have led to significant concerns from our customers over our service and business. We would like to take this chance to explain what has happened and reiterate our current situation so as to dispel rumours and maintain the trust the market has in CI as the leading IP address solution provider.

Recently, the Supreme Court of Mauritius has granted two court orders, with AFRINIC making one undertaking relevant to the said matters – proving that CI has been operating and using its number resources as an AFRINIC member in a completely legitimate manner. The said three legal proceedings are listed below:

Injunction Order made by Supreme Court on July 13, 2021 (Attachment A)

A judge's order dated 13 July 2021 was granted in favour of CI restraining and prohibiting AFRINIC from terminating our membership and reclaiming our number resources.

AFRINIC, in its communications with CI, clearly stated that whilst they were duly notified with the court Order and formally requested to comply, they deliberately refused to obey and comply with the said court Order and refused to reinstate the membership of CI.

Undertaking given by AFRINIC on July 15, 2021 (Attachment B)

On 15 July 2021, the CEO of AFRINIC appeared before the Judge in Chambers of the Supreme Court of Mauritius and gave an undertaking to comply with the said Order above in its entirety. Notwithstanding the formal undertaking given by the CEO on behalf of AFRINIC, the latter refused to reinstate the membership of CI and only reconsidered its position after being warned of contempt of court proceedings. The membership of CI was finally reinstated many hours later during the night of 15 July 2021.

Provisional Order of Attachment of funds in favour of Cloud Innovation issued on 23 July 2021(Attachment C)

By way of a Judge's Order dated 23 July 2021, the funds of AFRINIC held in bank accounts at SBM Bank (Mauritius) Ltd and Mauritius Commercial Bank Ltd, up to the sum of USD 50 Million, have been attached in favour of CI, pursuant to its claim for damages against AFRINIC as a result of the aforesaid unlawful termination and illegal acts and doings against CI.

Considering everything above, it clearly indicates that the actions taken by AFRINIC against CI are being done in bad faith and upon frivolous grounds to tarnish the reputation of CI. As an AFRINIC member in good standing, CI has consistently abided by relevant laws and policies and strives to contribute to the community to the best of our ability. We have never intended to take any action against AFRINIC, but we are also obligated to take the appropriate measures to protect ourselves, the hundreds of our customers, and hundreds of millions of end-users. Up to this day, we still welcome the chance of AFRINIC coming to an understanding of its own fault and taking the relevant culpability and responsibility that would remedy the situation. In doing so, we at CI would be open any time to any reasonable resolution proposed by AFRINIC.

We hope that we have, by setting out the recent events, addressed all the concerns and clarified all the rumours circulating in the market lately. We deeply and sincerely appreciate the continuous trust from our customers in us and our service. We hope to clear any concerns that may have arisen and any false rumours about our operations.

WI 5883 – SN 1040/21

IN THE SUPREME COURT OF MAURITIUS

In the matter of:-

Cloud Innovation Ltd

Applicant

v/s

African Network Information Centre (AfriNIC) Ltd

Respondent

And in the matter of:-

Ex-Parte

Cloud Innovation Ltd

Applicant

WHEREAS in virtue of a Judge's Order made on the 13th day of July, 2021 before **Honourable A D Narain, Judge**; upon hearing Mrs Attorney Y Hurnaurn-Calcuttea for the Applicant; After taking cognizance of the praecipe and affidavit both dated 13 July 2021 filed in support of the application, together with the documents thereto annexed;

IT IS HEREBY ORDERED that an Interim Order in the nature of an Injunction **BE AND SAME IS ISSUED**, restraining and prohibiting the Respondent, acting through its Board and/or its representative and/or préposé in whatever capacity, from-

- (i) acting, in any manner whatsoever, on its Board Resolution dated 08 July 2021, which had been taken following the judgment dated 07 July 2021 delivered by Hon. G Jugessur-Manna, Judge and subject to an appeal filed on 08 July 2021, which had the effect of terminating the membership of the applicant in the respondent with immediate effect;
- (ii) freezing, in any manner whatsoever, any or all of the resources allocated to the applicant;
- (iii) denying the applicant access, in any manner whatsoever, to the AFRINIC WHOIS database; and
- (iv) reclaiming, in any manner whatsoever, any or all of the resources allocated to the applicant by virtue of its membership as Resource Member of the respondent.



WHEREAS IT IS ALSO ORDERED THAT the above interim order **DO** remain in force until 15th day of July 2021 at 09.30 a.m when the abovenamed Respondent **IS ORDERED** to appear before the Honourable Judge sitting in Chambers, in Court No. 9, 7th Floor, in the **New Supreme Court Building, Edith Cavell Street, Port Louis** to show cause why the above interim order should not be enlarged, discharged or otherwise dealt with after hearing parties.

WHEREAS IT IS FURTHER ORDERED THAT the above Interim Order in the nature of an Injunction **BE AND SAME IS HEREBY ISSUED** at the **applicant's** own risks and perils, and upon **applicant's** undertaking, through **its** Attorney to abide by any order which the Court or Judge may thereafter make as to damages to the Respondent by the granting of this Interim Order in the nature of an Injunction.

Witness the Honourable A A Caunhye, Chief Justice

Chambers, this 13th day of July 2021



A handwritten signature in black ink, appearing to be 'P Choytun'.

P Choytun
Principal Court Officer
For Master and Registrar

Attachment B

Serial No. 1040/2021

IN THE SUPREME COURT OF MAURITIUS
(Before the Honourable Judge in Chambers)

In the matter of:-

Cloud Innovation Ltd

Applicant

v.s

African Network Information Centre (AfriNIC) Ltd

Respondent

ORDER:-

Mr G Glover, SC appears instructed by Mrs Attorney Y Hurnaun-Calcuttea for the applicant and files return of service dated 13 July 2021.

Mr B Radhakissoo, of Counsel appears together with Mr S Bhuckory, SC instructed by Mr M Mardemootoo, SA, who is in attendance for the respondent. He begs for apologies for the non attendance of Mr Bhuckory.

Respondent is represented by Mr Eddy Kayihura Mabanano, CEO of respondent.

Mr Glover states that notwithstanding the fact that the Order was served on the respondent on 13 July 2021, the respondent is not complying with the Order and will continue not to comply with same. He files a supplementary affidavit dated 15 July 2021 together with annexures.

Mr Radhakissoo states, with regard to the statement made by Mr Glover, SC, that he is not aware of any stand of the respondent not to comply with the Order. He further states that the Board Resolution was taken on 08 July 2021 and that the resolution was implemented on 09 July 2021. The respondent received the notice in denunciation only on 13 July 2021 when same was served on it. He, however, states that the respondent will fully comply with the Order.

Following exchange of views, Mr Glover states that the legal advisers of the applicant intend to ask for an early hearing of the appeal.

Mr Radhakisson states that the respondent will comply with the Interim Order issued on 13 July 2021 and that it is agreeable to give an undertaking to that effect.

The respondent's representative is explained the terms of an undertaking to comply with the Interim Order issued on 13 July 2021 and he gives an undertaking as per the Interim Order. He is further explained the consequences of a breach of the undertaking.

Mr Glover moves that the undertaking be recorded and otherwise moves to withdraw the application.

Upon hearing parties, I record the undertaking given by the respondent's representative and discharge the Interim Order issued on 13 July 2021. I otherwise set aside the application, purely and simply.

Chambers, this 15th July, 2021.

(sd)A D Narain
JUDGE

Amulaya
15/7/2021

Attachment C

SC/COM/JICA/000465/2021

IN THE SUPREME COURT OF MAURITIUS
(Commercial Division – In Chambers)

In the matter of:

CLOUD INNOVATION LTD

Applicant/Attaching Party

v

AFRICAN NETWORK INFORMATION CENTRE (AfrinIC) Ltd

Respondent/Debtor

In the presence of :

1. SBM BANK (MAURITIUS) LTD
2. MAURITIUS COMMERCIAL BANK LTD

Garnishees

And in the matter of:

CLOUD INNOVATION LTD

Applicant/Attaching Party

ORDER

Upon the application of Mrs Attorney Y Hurnaun-Calcutteea for the applicant, and after considering the Praeipe and affidavit, and the documents attached thereto;

I hereby authorise the Applicant, *at its own risks and perils*, to attach into the hands of each of the garnishees all monies held by the garnishees in the name of the respondent, either separately or jointly by way of deposits, current and savings or otherwise, up to the sum of USD 50 million.

Chambers, 23 July 2021.



V. Kwok Yin Siong Yen
JUDGE