REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG

Case Number: 2025-251259

(1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO
(3) REVISED: NO

6 February 2026 [redacted]
DATE SIGNATURE

In the matter between:

MEDIA HOST (PTY) LTD	Applicant
and	
	Type text here
NABEELAH ALLIE	First Respondent
LORNA MOSCA	Second Respondent
LINDIWE MAVIMBELA	Third Respondent
PHILLIP MOKHOLOANE	Fourth Respondent
DION REAGAN PIKES	Fifth Respondent
MASSIMILIANO RICCHIUTI	Sixth Respondent
NATHAN WILLIAMS	Seventh Respondent
SIDNEY KHOLOMELO MAILULA	Eighth Respondent
XR GLOBAL AFRICA (PTY) LTD	Ninth Respondent
ARTISTS TECHNOLOGIES AFRICA (PTY) LTD	Tenth Respondent
MICHAEL JOHN SMIT	Eleventh Respondent

JUDGMENT

Badenhorst AJ:

[1] The applicant, Media Host (Pty) Ltd, is a media delivery and content management provider. For over a decade (2011–2025), it was the sole licensee in South Africa for the "XR/Adstream platform," a technology used to manage and deliver advertising materials. The first to eighth respondents (the Employees) were employed by the applicant in its Adstream department, fulfilling various operational, technical, and client-facing roles. The eleventh respondent, Michael John Smit (Mr. Smit), is a former director and employee of the applicant who left acrimoniously in June 2025. He is the sole director of the ninth respondent, XR Global Africa (Pty) Ltd (XR Global).

[2] On 25 November 2025, the American owner of the platform, Extreme Reach Inc (XR), informed the applicant that its license would not be renewed upon expiry on 31 December 2025 and that XR Global (Mr. Smit's entity) would become the new licensee. Within three days of this notification, the Employees resigned *en masse*. They all took up employment with XR Global effective 1 January 2026.

[3] The applicant seeks to enforce restraint of trade and confidentiality agreements against the Employees for a period of six months. It alleges that the Employees and Mr. Smit coordinated a "*workforce transfer*" to facilitate unlawful springboarding, allowing XR Global to bypass the ordinary start-up phase of a business. The applicant contends that while it lost the license, it retains protectable interests in its "service-layer" operations, including internal workflows, pricing logic, client-specific configurations, and institutional know-how, which are distinct from the platform code.

[4] The applicant alleges actual misappropriation of confidential information, citing instances where employees forwarded internal manuals, client lists, and FTP credentials to personal email accounts prior to departure. It argues that XR Global engaged in unlawful competition by inducing these breaches and confusing clients through communications stating that "*nothing changes*"

regarding their service teams and workflows. The applicant asserts it has developed its own platform to continue servicing clients, thereby remaining a competitor to XR Global.

[5] The respondents oppose the application, arguing that the applicant holds no protectable interest. They contend that all alleged confidential information (workflows, client lists, pricing) is either proprietary to the Adstream platform (owned by XR), belongs to the clients, or constitutes generic industry skills which employees are entitled to take with them.

[6] The respondents argue that the restraints are unenforceable because they serve only to stifle competition and prevent the Employees from earning a living using their specific skills. They assert that XR Global does not compete unlawfully *because the applicant lost the license to the essential tool* (the platform) required to provide the specific services. Furthermore, they argue that client identity is not confidential as XR provided the user list to the new licensee. The Employees deny possessing or misusing confidential information, claiming any data transfer was for legitimate handover purposes or has since been deleted, and they have tendered undertakings not to use such information.

Key Issues to be Determined

[7] The Court must first determine whether the matter is sufficiently urgent to bypass ordinary rules.

a. The applicant relies on the limited six-month lifespan of the restraints and the immediate commercial harm caused by the mass exodus and alleged springboarding.

b. The respondents argue that the applicant's delay in filing its replying affidavit warrants refusal of condonation and striking the matter from the roll and challenge the reasonableness of the urgent timetable.

[8] The central substantive enquiry is whether the applicant has a protectable proprietary interest that justifies limiting the Employees' constitutional right to trade.

[9] The Court must determine whether the "know-how," workflows, and client connections belong to the applicant (as a "service layer" business) or are inherent features of the licensed XR/Adstream platform. If the knowledge is platform-specific and the applicant has lost the platform license, the respondents argue the interest has "evaporated".

[10] The Court must decide if the information cited (pricing logic, client lists, training manuals) is objectively confidential or public/industry standard.

[11] The Court must weigh the applicant's interest against the Employees' interest in being economically active, considering their argument that the restraint effectively bars them from the only work for which they are skilled.

[12] If a protectable interest exists, the Court must determine if it was infringed.

[13] Did the Employees unlawfully remove data (emails, FTP logs, manuals) for competitive leverage, or were these innocent administrative acts for handover purposes?

[14] Did the coordinated move of the entire workforce to XR Global confer an unlawful head start, allowing the new entity to skip the usual time required to establish a functional business structure?

[15] The Court must determine if the conduct of the ninth to eleventh respondents constituted unlawful competition.

[16] Does XR Global compete with the applicant, given that the applicant lost the Adstream license? This turns on whether the applicant successfully established that it has a replacement platform and remains in the market.

[17] Did Mr. Smit unlawfully induce the Employees to breach their contractual obligations, or did they approach him independently out of job security concerns following the license termination?

Interdict vs. Damages: The respondents argue that any harm suffered by the applicant is quantifiable (loss of profit from specific clients) and should be claimed as damages rather than through an interdict. The applicant argues that springboarding causes irreparable harm to goodwill and market position that damages cannot cure.

[18] Whether the geographic restraint (Gauteng, Western Cape, KZN) is rational for a cloud-based platform business.

[19] Before dealing with the central issue of the restraint of trade, it is necessary to comment on the conduct of the Eleventh Respondent, Mr. Michael John Smit ("Smit"). Smit is a former director of the Applicant and remains a trustee of a shareholder trust. It is common cause that within three days of the Applicant being notified of the license termination, the Employees resigned *en masse* to take up employment with Smit's new entity, XR Global, effective 1 January 2026.

[20] Smit's conduct was egregious and deserving of censure. While still connected to the Applicant's ownership structure, or immediately upon his departure, he orchestrated a coordinated migration of the Applicant's entire "delivery capability" to his new entity. His communication to the Applicant's clients on 10 December 2025 - assuring them that "*nothing changes*" and "*the same team you've always worked with is moving across*" - exploited the Applicant's workforce stability to the detriment of its goodwill. This goes beyond vigorous competition; it bears the hallmarks of a strategic gutting of the Applicant's operational capacity using inside knowledge of its staffing structure.

[21] Consequently, there appear to be strong grounds for the Applicant's case of unlawful competition and springboarding against Smit and his the legal entities under his control, namely the Ninth and Tenth Respondents.

[22] The Employees have admittedly taken up employment with a competitor in contravention of the restraints they had agreed to. The onus thus rests on the Respondents to show that the enforcement of the restraints would be unreasonable. The Applicant must, however, first demonstrate a protectable proprietary interest in the enforcement of the restraint - either in the form of trade secrets or trade connections - that requires protection.

[23] These proceedings are final in effect. It is a trite principle of our law, enshrined in the rule in Plascon-Evans Paints Ltd v Van Riebeeck Paints (Pty) Ltd, that

where disputes of fact arise on the affidavits, a final order may be granted only if the facts averred in the applicant's affidavits, which have been admitted by the respondent, together with the facts alleged by the respondent, justify such an order.

[24] The central question is whether, in light of the lawful termination of the Applicant's license to use the Adstream platform, the Adstream Division of the Applicant's business proved the existence of a proprietary interest in the enforcement of the restraint.

[25] The Applicant alleges in its Founding Affidavit that it retains a "service layer" interest - comprising internal workflows, pricing logic, and institutional know-how - that is distinct from the platform itself. However, the Respondents contend that all alleged "know-how" and workflows are inherent to the functionality of the Adstream platform, which is proprietary to the licensor (XR), not the Applicant. They argue that because the Applicant lost the license to the essential tool required to perform the work, it has no protectable interest in the operation of that tool.

[26] While the Respondents contend that all know-how and trade connections were inextricably linked to the licensed Adstream platform, this argument conflates the software tool with the business operation itself. The Applicant has persuasively proved the existence of a "service layer" comprising internal workflows, pricing logic, client-specific configurations, and institutional know-how that operates independently of the platform's code. The Respondents' attempt to characterize these proprietary methods as generic "industry standards" is unconvincing and fails to engage with the specific commercial reality that the Applicant, not the licensor, was the contracting party responsible for client intake, billing strategies, and quality control protocols. The coordinated resignation of the entire operational team to provide an immediate, seamless service to the same clients using the same methods supports the inference that the Respondents are not merely utilizing generic skills but are exploiting the Applicant's specific operational infrastructure. Consequently, I am satisfied that the Applicant retains a proprietary interest in its service methodologies and client goodwill that survives the termination of the software license.

[27] The Respondents argue that the Applicant is no longer a competitor because it lost the license, and they object to the Applicant's mention of a replacement platform in the Replying Affidavit as constituting a new case. This objection is without merit. The Applicant's reference to its own developed platform was not the introduction of a new cause of action, but a legitimate factual rebuttal to the Respondents' defensive allegation that competition had ceased and that no harm was suffered. An applicant is entitled in reply to refute a defence raised in the answering papers to demonstrate that the parties remain in competition.

[28] Furthermore, the evidence establishes that the Applicant remains an active participant in the media services market, offering media monitoring and content management services beyond the scope of the terminated license. The Respondents' contention that the Applicant's interest evaporated with the license ignores the broader scope of the Applicant's business and the independent value of its established client relationships. By asserting that "nothing changes" for the clients, the Respondents have sought to appropriate the Applicant's goodwill for themselves, a clear indication that they view the Applicant's business structure - and not just the software - as the source of value.

[29] The Applicant has therefore established a clear right to the protection of its proprietary interests. The conduct of the Respondents gives rise to a reasonably apprehended harm that is neither speculative nor permissible. The evidence of employees forwarding internal manuals, client lists, and FTP credentials to personal accounts prior to resignation, combined with the Eleventh Respondent's orchestrated transfer of the workforce to bypass the ordinary start-up risks of a new business, demonstrates a determination to destroy the Applicant's business using unlawful means. This conduct constitutes unlawful springboarding. To refuse the restraint would be to condone the misappropriation of the Applicant's confidential "service layer" and allow the Respondents an unfair competitive advantage derived from the Applicant's investment in its workforce and client relations.

[30] Accordingly, the restraints of trade are reasonable and enforceable on these papers.

[31] Regarding the claim against the Ninth, Tenth, and Eleventh Respondents, the Applicant has successfully established a clear right to protection from unlawful competition. Unlike the restraint inquiry, which balances contractual interests, this inquiry focuses on the lawfulness of the competitor’s conduct. The evidence discloses a calculated scheme, orchestrated by the Eleventh Respondent while he stood in a fiduciary relationship to the Applicant or immediately thereafter, to appropriate not merely a software license, but the Applicant’s entire operational infrastructure. The Eleventh Respondent registered the Ninth Respondent in February 2023, while still a director of the Applicant, evidencing a long-term strategy to divert the business. This intent culminated in the coordinated extraction of the Applicant’s entire Adstream workforce within 72 hours of the license termination notice (in favour of the Ninth Respondent). This mass resignation was not a series of isolated coincidences but a strategic move to ensure that the Ninth Respondent could offer immediate, seamless service continuity to the Applicant’s clients, thereby bypassing the ordinary start-up risks and time required to recruit and train a new team. Indeed, in his email of 10 December 2025 to the Applicant’s clients, the Eleventh Respondent explicitly marketed this "seamless service continuity" - the product of his own egregious conduct - as his primary selling point, assuring clients that "nothing changes" because "the same team... is moving across".

[32] The Respondents’ contention that their advantage derives solely from the lawful award of the Adstream license is belied by their own conduct. The 10 December 2025 “nothing changes” - email proves the point. These Respondents are guilty of unlawful springboarding; the Respondents did not merely compete for the license, they hijacked the Applicant’s "delivery capability" to ensure the Applicant could not compete effectively post-termination. Furthermore, the Eleventh Respondent’s covert interference with the Applicant’s separate "X-Dream" software license - where he purported to act for the Applicant without authority - demonstrates a pattern of unlawful interference that extends beyond the Adstream dispute. The Tenth Respondent, identified as a vehicle used to extract "consultancy fees" while the Eleventh Respondent was a director, is properly joined to prevent the circumvention of relief.

[33] I am satisfied that the Applicant has no adequate alternative remedy. The Respondents argue that any harm is quantifiable in damages. However, the injury here involves the ongoing erosion of the Applicant's goodwill, the sowing of market confusion, and the misappropriation of confidential service-layer workflows that allow the Respondents to masquerade as the Applicant's successor in title. Such harm is continuous and difficult to quantify with precision. To limit the Applicant to a damages claim would be to condone the Respondents' unlawful "gutting" of the Applicant's business. Actions for damages are notoriously slow. It will take years before action proceedings will be finally determined. Accordingly, the requirements for a final interdict preventing the Ninth, Tenth, and Eleventh Respondents from utilizing the Applicant's confidential information and interfering with its business relationships have been met.

Order

[34] In the result, I make the following order:

1. The applicant's failure to comply with the rules pertaining to forms, time periods and service is condoned, and this matter is heard as one of urgency in accordance with rule 6(12) of the Uniform Rules of Court.

2. For a period of 6 (six) months from:

   2.1 13 December 2025 in respect of the first respondent; and

   2.2 1 January 2026 in respect of the second, third, fourth, fifth, sixth, and eight respondents; and

   2.3 31 January 2026 in respect of the seventh respondent; and

   within the greater Gauteng, Western Cape and KwaZulu-Natal areas, the first to eighth respondents are interdicted and restrained from:

   2.4 being employed by the ninth, tenth and/or eleventh respondents, or any other individual or entity conducting business in competition with the applicant;

2.5 canvassing any client, customer, supplier and principals of the applicant or utilising the services of any other provider of the applicant;

2.6 directly or indirectly, soliciting, approaching, interfering with or enticing or attempting to entice away from the applicant any of its existing clients, customers, suppliers and principals;

2.7 soliciting or otherwise approaching any employee or consultant of the applicant with the view to encourage him/her to become employed or interested in any manner whatsoever in any other person, undertaking or concern (including but not limited to the ninth, tenth and eleventh respondents) which competes with the applicant and or to terminate his/her employment or association with the applicant for any reason whatsoever;

2.8 revealing to any person, firm or corporation, any of the trade secrets and/or the confidential information of the applicant.

3. The first to eighth respondents are:

3.1 interdicted and restrained, whether directly or indirectly, from possessing, using, disclosing, copying, disseminating or otherwise exploiting any confidential information belonging to the applicant, including but not limited to client information, operational workflows, methodologies, pricing information, internal documents, training materials and business records, howsoever obtained;

3.2 directed to deliver up to the applicant, within 24 (twenty-four) hours of service of this order, all documents, data, records and information (whether in hard copy or electronic form) belonging to or derived from the applicant that are in their possession, custody or control, including any copies thereof;

3.3 directed to permanently delete all electronic copies of the applicant's confidential information from any personal devices, email accounts, cloud storage, external drives or other storage media, and to furnish the applicant with a written certificate, deposed to under oath, confirming compliance with this order;

3.4 directed to provide written undertakings that they have not disclosed the applicant's confidential information to any third party, including the ninth, tenth and eleventh respondents, and that they will not do so in future.

4. The ninth, tenth and eleventh respondents are interdicted and restrained from:

4.1 using, disclosing, copying, retaining or exploiting any confidential information, know-how, workflows, methodologies, pricing, customer information, or institutional knowledge belonging to the applicant;

4.2 inducing or procuring any employee of the applicant to breach their contractual obligations, including restraints of trade and confidentiality undertakings;

4.3 engaging in unlawful competition, including unlawful springboarding, by utilising the applicant's workforce, confidential information, customer relationships or operational environment to establish or advance their business.

5. The respondents are ordered, jointly and severally to pay the costs of suit, including the costs of counsel on Scale C, the one paying the others are absolved the extent of such payment.

[redacted]

BADENHORST AJ
JUDGE OF THE HIGH COURT
JOHANNESBURG

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