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

17 February 2026 [redacted]
DATE SIGNATURE

In the matter between:

MEDIA HOST (PTY) LTD	Applicant
and	
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 IN RESPONDENTS' APPLICATION FOR LEAVE TO APPEAL

Badenhorst AJ:

[1] This is an application for leave to appeal against the whole of the judgment and order of this Court delivered on 6 February 2026. In the main judgment, I granted the Applicant final relief enforcing restraints of trade against the First to Eighth Respondents ("the Employees") and interdicting the Ninth, Tenth, and Eleventh Respondents from unlawful competition and springboarding. I continue, for ease of reference, to refer to the parties as cited in the original application.

[2] The application for leave to appeal is premised on the grounds set out in the Respondents' Notice of Application for Leave to Appeal dated 9 February 2026, as amplified by their Heads of Argument and oral submissions. The application is opposed by the Applicant on whose behalf oral submissions were made.

[3] The test for leave to appeal is governed by section 17(1)(a)(i) of the Superior Courts Act 10 of 2013. Leave may only be granted if the court is of the opinion that the appeal *would* have a reasonable prospect of success. This threshold is higher than the test under the predecessor Supreme Court Act and requires a measure of certainty that another court will differ from the court of first instance.

[4] A central pillar of the Respondents' argument is that the Applicant failed to make out a case in its Founding Affidavit that it intended to continue the Adstream division of its business following the termination of its license on 31 December 2025. The Respondents contend that the Court erred in relying on the Replying Affidavit - where the Applicant averred it had developed a replacement platform - arguing this constituted an impermissible new case.

[5] The Applicant's cause of action in the Founding Affidavit was premised on the enforcement of contractual restraints and the prevention of unlawful competition based on *existing* proprietary interests (the "service layer" and customer goodwill) – see paragraphs 44 – 45 of the Founding Affidavit which are not

contested by the Respondents. The Applicant’s reference to its replacement platform in Reply was not a new cause of action; it was a legitimate factual rebuttal to the Respondents' defensive allegation that competition had ceased. An applicant is entitled to traverse a defence raised in the answering papers to demonstrate that the parties remain in competition, provided that the issue is pleaded in the founding affidavit which it was. There is no reasonable prospect that another court would uphold this contention.

[6] Regarding the Employees, the Respondents persist with the argument that all "know-how" and customer connections were inextricably linked to the Adstream platform license, which belonged to the licensor, and therefore the Applicant’s interest "evaporated" on 31 December 2025.

[7] The Court found that the Applicant possessed a "service layer" of confidential information - comprising internal workflows, pricing logic, client-specific configurations, and institutional know-how that operates independently of the platform's code. The Employees’ attempt to characterize their roles as merely "generic" or "administrative" was inconsistent with the objective evidence of their duties (client onboarding, quality control, account management) and the coordinated manner of their departure. The fact that the Eleventh Respondent ("Mr. Smit") orchestrated the move of the *entire* team at the same time to ensure "seamless continuity" is proof that their value lay in their collective, specific knowledge of the Applicant's clients and workflows, not merely in their ability to operate a software tool. I am not persuaded that another court would come to a different conclusion on the facts.

[8] The Ninth to Eleventh Respondents argue, moreover, that their competitive advantage was derived lawfully from the award of the license by the platform owner, Extreme Reach, and that the Court erred in finding unlawful competition.

[9] This argument ignores the dispositive evidence of the undisputed "nothing changes" email sent by Mr. Smit on 10 December 2025. In that correspondence, sent while the Applicant was still the licensee (until 31 December 2025), Mr. Smit explicitly marketed the "seamless service continuity" provided by the Applicant’s former workforce as his selling point. This constitutes the classic definition of

springboarding: using the competitor's own labour force and goodwill to bypass the necessary start-up phase of a business. In my view, another court would not sanction such conduct as lawful competition, particularly when orchestrated by a former director still connected to the Applicant's shareholder trust, who garnered the support of then existing employees.

[10] The Respondents argue that the Court erred in granting an interdict against unlawful competition for an "indefinite period," citing *Knox D'Arcy v Jamieson* 1992 (3) SA 520 (W) at 528I – 529B for the proposition that a springboard evaporates with time.

[11] The interdict restrains *unlawful* competition. It prevents the Respondents from holding out that they are the Applicant's successor or using the Applicant's confidential information. Once the information loses its confidential character or the springboard has naturally decayed, the conduct may no longer be "unlawful," but the order remains valid to prevent the specific illegality complained of. Given the egregious "gutting" of the Applicant's business within a 72-hour window, and the ongoing confusion among clients, the relief granted was appropriate and necessary to stop the continuing harm. There is no reasonable prospect of success on this ground.

[12] The argument that the Tenth Respondent was improperly joined bears no prospect of success. The evidence established it was used as a vehicle to invoice fees while Mr. Smit was a director, and its joinder was necessary to prevent the circumvention of the order.

[13] The Respondents' grounds of appeal largely rehash the arguments raised in the main hearing, specifically the "platform defence," which was rejected on the facts. The coordinated resignation of the entire workforce and the immediate "switch-over" of service without a start-up period speaks for itself. I am not satisfied that the appeal would have a reasonable prospect of success.

[14] In the result, I make the following Order:

1. The application for leave to appeal is dismissed.

2. The Respondents are directed to pay the costs of the application, jointly and severally.

[redacted]

BADENHORST AJ

JUDGE OF THE HIGH COURT

JOHANNESBURG

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