IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2025] SGHC 228

Originating Application No 797 of 2025

In the matter of Part 11 of the Insolvency, Restructuring and Dissolution Act 2018

And

In the matter of Section 252 of the Insolvency, Restructuring and Dissolution Act 2018

And

In the matter of Article 15 of the UNCITRAL Model Law on Cross-Border Insolvency

And

In the matter of Near Intelligence Pte Ltd

Drivetrain LLC (in its capacity as Litigation Trustee for the litigation trust in respect of Near Intelligence Inc, Near Intelligence LLC, Near North America Inc and Near Intelligence Pte Ltd)

… *Applicant*

JUDGMENT

[Insolvency Law — Cross-border insolvency — Recognition of foreign insolvency proceedings — Foreign representative seeking recognition of foreign insolvency proceedings — Whether foreign insolvency proceedings should be recognised — Third Schedule of the Insolvency, Restructuring and Dissolution Act 2018]

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19 November 2025 Judgment reserved.

Mohamed Faizal JC:

Introduction

1 In HC/OA 797/2025 ("Recognition Application"), the applicant, Drivetrain LLC ("Drivetrain"), applied for recognition and reliefs in relation to insolvency proceedings in the US pertaining to Near Intelligence Pte Ltd ("Company"), pursuant to s 252 and the Third Schedule ("Model Law") of the Insolvency, Restructuring and Dissolution Act 2018 (2020 Rev Ed) ("IRDA"). Having considered the matter, and for the reasons set out below, I grant the Recognition Application in part.

Background facts and procedural history

The proceedings in the US

2 The Company was incorporated in Singapore in February 2020. It is wholly owned by Near Intelligence LLC which also wholly owns Near North America Inc. Near Intelligence LLC is in turn wholly owned by Near

Intelligence Inc. Near North America Inc, Near Intelligence LLC and Near Intelligence Inc were all incorporated in Delaware, in the US. I will refer to these four entities collectively as the "Debtors".[1]

3 On 8 December 2023, the Debtors each filed a voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code 11 USC (US) (1978) ("US Bankruptcy Code"), which were then consolidated so that the proceedings could be jointly administered ("US Proceedings").[2] From January to February 2024, the United States Bankruptcy Court for the District of Delaware ("US Bankruptcy Court") granted various orders facilitating the proposed sale of substantially all of the Debtors' assets, culminating in a sale order authorising and approving the entry into and performance under an asset purchase agreement ("Purchase Agreement") that contemplated the sale of the Debtors' assets to BTC Near Holdco LLC, which was subsequently renamed Azira LLC ("Purchaser").[3]

4 In March 2024, the US Bankruptcy Court granted a confirmation order ("Confirmation Order") confirming a combined disclosure statement and plan read with earlier plan supplements as amended, modified or supplemented ("Combined Disclosure Statement and Plan"). In connection with the Combined Disclosure Statement and Plan, a litigation trust agreement ("Litigation Trust Agreement") was executed whereby various beneficiaries agreed to transfer to the litigation trust their rights to various distributable assets, and under which Drivetrain would be the appointed litigation trustee. Subsequently, a notice of

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1 Timothy Daileader's affidavit sworn on 28 July 2025 and filed on 1 August 2025 ("Drivetrain's First Affidavit") at paras 6–7.

2 Drivetrain's First Affidavit at paras 9–10.

3 Drivetrain's First Affidavit at paras 11–12.

effective date ("Notice of Effective Date") was filed in the US Bankruptcy Court giving notice of the entry of the Confirmation Order.[4]

5 Under the Combined Disclosure Statement and Plan, claims against the Debtors are placed in eight different classifications with respect to the different rights and priorities of creditors in accordance with the US Bankruptcy Code. The proceeds from the litigation trust are payable to the creditors according to the terms set out in the Confirmation Order, the Combined Disclosure Statement and Plan and the Litigation Trust Agreement. The Litigation Trust Agreement also authorises Drivetrain to take actions in connection with the administration and consummation of the litigation trust and the Combined Disclosure Statement and Plan, and to wind down the affairs of the Debtors and each of their subsidiaries.[5]

6 In July 2025, the US Bankruptcy Court granted an order authorising Drivetrain to act as a foreign representative of the Debtors in any non-US court as it deems necessary or beneficial ("Foreign Representative Order").[6]

The proceedings in India

7 Near Intelligence Pvt Ltd ("Near Intelligence (India)") was incorporated in India in September 2021. The Company is the legal and beneficial owner of 9,999 shares (out of a total of 10,000 shares issued) in Near Intelligence (India). The remaining share is apparently beneficially owned by the Company but

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4 Drivetrain's First Affidavit at paras 14 and 16–17.

5 Drivetrain's First Affidavit at paras 17–18.

6 Drivetrain's First Affidavit at para 15.

legally owned by one Justin Joseph ("Mr Joseph") who holds it on trust for the Company.[7] Mr Joseph is one of two directors of Near Intelligence (India).

8 The Purchase Agreement contemplated that the Company's shares in Near Intelligence (India) would be transferred to the Purchaser, but this has not taken place allegedly because of the lack of cooperation from the directors of Near Intelligence (India).[8]

9 In January 2025, Drivetrain commenced proceedings in India in the name of the Company against Near Intelligence (India) and its two directors ("India Proceedings") arising from the directors' non-performance of various statutory and legal obligations including in relation to annual tax and financial filings. The Company had initially requisitioned the directors to call an extraordinary general meeting ("EGM") to appoint three new nominee directors, but the two existing directors failed to do so. The Company then called for an EGM, which Mr Joseph failed to attend, and the required quorum was therefore apparently not met. Thus, the Company commenced the India Proceedings to seek a direction for Near Intelligence (India) to convene an EGM with a quorum of one member (*ie*, the Company). In his application filed in the India Proceedings, Mr Joseph alleged that Near Intelligence (India) has failed to pay his salary and urged the court to direct Near Intelligence (India) to immediately release all pending salaries purportedly due to him.[9]

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7 Drivetrain's First Affidavit at para 20 and pp 699–700; Notes of Evidence ("NE") (25 September 2025) at 3:15–3:23.

8 Drivetrain's First Affidavit at para 21.

9 Drivetrain's First Affidavit at paras 22–23 and pp 698 and 911–912.

The proceedings in this Recognition Application

10 In this Recognition Application, Drivetrain initially sought the following orders:[10]

> (a) The US Proceedings be recognised in Singapore as foreign non-main proceedings in respect of the Company, pursuant to Art 17(2)(*b*) read with Arts 2(*d*) and 2(*g*) of the Model Law ("Prayer 1").
>
> (b) Drivetrain be recognised as the foreign representative of the Company within the meaning of Art 2(*i*) of the Model Law ("Prayer 2").
>
> (c) The Confirmation Order, the Combined Disclosure Statement and Plan, and the Notice of Effective Date be recognised and enforced in Singapore in respect of the Company, pursuant to Art 21(1) of the Model Law ("Prayer 3").
>
> (d) Drivetrain be entrusted with the administration, realisation and distribution of all of the Company's property and assets located in Singapore in accordance with the Combined Disclosure Statement and Plan and the Confirmation Order, pursuant to Art 21(1)(*e*) of the Model Law ("Prayer 4").

However, for reasons that will be explained later, Drivetrain subsequently sought the court's permission to withdraw Prayer 4.[11]

11 At the first hearing before me on 25 September 2025 ("First Hearing"), I asked counsel for Drivetrain ("Ms Cheang") if they had notified the

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10 Drivetrain's First Affidavit at para 5.

11 Letter from Withers KhattarWong LLP to the court dated 10 November 2025 ("Drivetrain's Letter") at para 4.

Company's existing directors of this Recognition Application, as it was not apparent whether that had been done based on the documents that were placed before me. Ms Cheang informed me that at least one director had been notified, but could not otherwise confirm if notice had been provided to the two other remaining directors. She suggested that that there was no legal requirement to give notice to all the directors of the Company, and that, in any event, the one director who was notified could inform the others regarding these proceedings.[12]

12 I disagreed. In *Re Fullerton Capital Ltd* [2025] 1 SLR 432 ("*Fullerton*") at [92], the Court of Appeal explained that:

> … while applications for recognition may be commenced *ex parte*, the practice that our courts have typically followed is to direct that an application for recognition be brought to the attention of all interested parties, who are thereby given an opportunity to address the court on matters of concern which may not be brought up by the foreign representative. …

13 In my view, the existing directors of the Company are clearly "interested parties" in this Recognition Application. This is not least because, under the Confirmation Order and the Combined Disclosure Statement and Plan, "the Debtors' directors and officers shall be terminated automatically" and Drivetrain shall have "the power to act for the Debtors in the same capacity as applicable to a board of directors and officers" and "shall be deemed officers, representatives, and directors of, and shall act for, each of the Debtors".[13] Since Drivetrain is seeking for the Confirmation Order and the Combined Disclosure Statement and Plan to be recognised and enforced in Singapore (*ie*, Prayer 3),

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12 NE (25 September 2025) at 2:19–3:13.

13 Applicant's Written Submissions ("AWS") at para 7(a); Drivetrain's First Affidavit at pp 419, 422 and 503.

the existing directors of the Company would clearly be affected by such orders and would constitute "interested parties".

14 Such an understanding is further supported by Art 22(1) of the Model Law which provides that, in granting relief under Art 21 (the legal basis Drivetrain relies on to seek Prayer 3), the court must be satisfied that the interests of the creditors *and other interested persons* are adequately protected. The *Guide to Enactment of the UNCITRAL Model Law on Cross-Border Insolvency*, UN Doc A/CN.9/442 (1997), which is a relevant document in interpreting the Model Law pursuant to s 252(2)(*b*) of the IRDA and s 9A(3)(*f*) of the Interpretation Act 1965 (2020 Rev Ed), explains at paragraph 161 that the idea underlying Art 22 is to strike a balance between the relief that may be granted to the foreign representative and the interests of persons *that may be affected by such relief*. This explanation is also retained in paragraph 196 of the updated *UNCITRAL Model Law on Cross-Border Insolvency with Guide to Enactment and Interpretation*, UN Sales No E.14.V2 (2014) which, whilst not expressly referred to in s 252(2) of the IRDA, is still relevant extrinsic material in interpreting the Model Law (*Fullerton* at [54]). Since the existing directors of the Company will be affected if Prayer 3 is granted, they clearly constitute "interested persons" under Art 22(1).

15 I also informed Ms Cheang that the supporting affidavit appeared to be lacking sufficient particulars pertaining to the Company's centre of main interests ("COMI") and Drivetrain's purpose in filing this Recognition Application. I will discuss these initial concerns in greater detail later. To address these concerns, I directed Drivetrain to file a further affidavit setting out more information on the above matters, and to also give notice of these

proceedings and any subsequent hearing date to all creditors and directors of the Company.[14]

16 Drivetrain filed the further affidavit on 16 October 2025. The further affidavit explained that Drivetrain's lawyers sent a letter dated 6 October 2025 to the Company by registered post, giving notice of the Recognition Application and my directions at the First Hearing.[15] This letter was also sent to the three directors of the Company *via* e-mail, and notices from Microsoft Outlook indicating that the e-mails were delivered were exhibited in the further affidavit.[16] At the second hearing before me on 30 October 2025 ("Second Hearing"), Ms Cheang confirmed that they received no response from any of the Company's directors or creditors and was not aware of any interest on their part to be heard on this matter.[17] That being the case, I am satisfied that adequate notice of the Recognition Application was provided to the Company's creditors and other interested persons.

Issues to be determined

17 The issues to be determined are as follows:

(a) Prayer 1: Whether the US Proceedings should be recognised as foreign non-main proceedings.

(b) Prayer 2: Whether Drivetrain should be recognised as the foreign representative of the Company.

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14 NE (25 September 2025) at 7:8–7:20.

15 Timothy Daileader's affidavit dated 16 October 2025 ("Drivetrain's Second Affidavit") at para 18(d) and pp 126–127.

16 Drivetrain's Second Affidavit at para 19 and pp 128–130.

17 Minute Sheet ("MS") (30 October 2025) at p 1.

(c) Prayer 3: Whether the Confirmation Order, the Combined Disclosure Statement and Plan, and the Notice of Effective Date should be recognised and enforced in Singapore.

(d) Prayer 4: Whether Drivetrain should be granted permission to withdraw Prayer 4.

Drivetrain's purpose in filing the Recognition Application

18 Before I address the issues to be determined, it is appropriate to first discuss Drivetrain's purpose in filing the Recognition Application. It would be good practice for an applicant to clearly explain to the court why it has filed a recognition application, why the orders being sought are necessary or appropriate, and what its intended course of action will be if the application is granted. This is of course subject to any privilege that may apply to such information.

19 Under Art 21(1) of the Model Law, the foreign representative may request that the court grant appropriate relief upon the recognition of the foreign proceeding. The court must be satisfied that the relief is necessary to protect the property of the debtor or the interests of the creditors, and even then, retains discretion over whether such relief should be granted. In exercising such discretion, it would be relevant for the court to consider why the orders sought are necessary or appropriate and what the applicant intends to do assuming the relief sought is granted. In the same vein, under Art 6 of the Model Law, the court may refuse to recognise a foreign proceeding or grant any consequential relief if it assesses that such action would be contrary to the public policy of Singapore. This public policy exception may be triggered where the recognition application is brought in bad faith for a collateral purpose, such that it constitutes an abuse of process, and the foreign representative has failed to make

full and frank disclosure of material facts (*Re PT Garuda Indonesia (Persero) Tbk* [2024] 3 SLR 254 ("*Garuda*") at [96(c)]; *Fullerton* at [123]–[125]). For the court to meaningfully determine whether this public policy exception is triggered, it would be necessary for the court to first understand the applicant's purpose in filing the recognition application. In saying this, I am cognisant that there is a high threshold for the public policy exception to be invoked (*Garuda* at [94]) and the court should not be searching for a reason to invoke it where there is objectively none. Nonetheless, until the applicant explains what its motivations are for bringing a recognition application, the court would simply not be in any meaningful position to evaluate whether the applicant's purpose is consistent with the goals of the Model Law or entirely collateral to it.

20 In the present case, Drivetrain initially focused an inordinate proportion of its supporting affidavit and written submissions on the India Proceedings. Drivetrain claimed that a key reason why the transactions contemplated by the Purchase Agreement could not be completed was because the directors of Near Intelligence (India) were not cooperating to approve the transfer of the Company's shares in Near Intelligence (India) to the Purchaser.[18] It consequently submitted that it required an order entrusting it with the administration, realisation and distribution of the Company's assets located in Singapore (*ie*, Prayer 4) so as to take control of the shares in Near Intelligence (India) and effect its transfer to the Purchaser.[19]

21 Respectfully, it was difficult to understand Drivetrain's motivations for the Recognition Application from its initial submissions. I was prepared to accept that one of Drivetrain's goals, broadly speaking, would be to effect the

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18 AWS at para 22; Drivetrain's First Affidavit at para 21.

19 AWS at para 50; Drivetrain's First Affidavit at para 45.

transfer of the Company's shares in Near Intelligence (India) to the Purchaser. Nonetheless, there was no explanation as to how exactly the directors of Near Intelligence (India) have refused to cooperate and how such lack of cooperation necessarily prevented the Company from effecting the transfer of the shares. In the India Proceedings, the Company levied various accusations against Mr Joseph for failing to discharge his director's duties and for preventing an EGM from being convened. None of this appeared to be to the point. Even if these allegations were true, it was not clear how these omissions created an obstacle to the transfer of the shares, if at all. Likewise, even if the Company succeeds in the India Proceedings and an EGM is convened to appoint new nominee directors for Near Intelligence (India), it was not clear how this would put Drivetrain any closer to effecting the transfer of the shares. Perhaps most fundamentally, it was not clear how the orders sought in this Recognition Application were relevant to the India Proceedings or the reliefs sought therein.

22 At the First Hearing, I expressed the above concerns to Ms Cheang.[20] It was then that Ms Cheang clarified the purpose of this Recognition Application. She explained that, at present, there is a disconnect between the US Proceedings and the status of the Company in Singapore: while the Confirmation Order and the Combined Disclosure Statement and Plan contemplate that Drivetrain effectively takes over the Company from the existing directors, those existing directors still, in theory at least, possess the authority to manage the affairs of the Company in Singapore as they are listed on the register of directors here. Yet, if the existing directors act on behalf of the Company in Singapore, they run the risk of breaching the Confirmation Order and the Combined Disclosure Statement and Plan, since these orders purport to terminate such individuals

[20] NE (25 September 2025) at 3:15–3:30.

from their office with immediate effect, as I have explained at [13] above. The purpose of this application is thus to facilitate the alignment of, and ensure parity in, the proceedings before the US Bankruptcy Court and the Singapore courts.[21] In the further affidavit, Drivetrain reiterated that this was the actual purpose of the Recognition Application.[22]

23 I was persuaded by this latter explanation. The orders sought in this Recognition Application (particularly Prayer 3), if granted, will establish definitively that the Singapore courts recognise Drivetrain's authority to act on behalf of the Company by virtue of the Confirmation Order and the Combined Disclosure Statement and Plan. Nonetheless, if this is correct, then Drivetrain's lengthy exposition on the India Proceedings appears to have been a red herring. To be fair, an applicant should not be faulted for being comprehensive in disclosing material information to the court. Nonetheless, the broader point I make is that the relevance of such information should be assessed and explained to the court in an appropriate manner, and the primary motivations for any Recognition Application ought to be articulated in no uncertain terms.

24 Having clarified Drivetrain's purpose in filing this Recognition Application, it suffices for me to conclude at this juncture that there is no evidence before me to suggest that the public policy exception in Art 6 of the Model Law is engaged. I thus proceed to analyse each of the issues to be determined in turn.

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21 AWS at paras 6–7; NE (25 September 2025) at 4:1–4:25.

22 Drivetrain's Second Affidavit at paras 15–17.

Prayer 1: Whether the US Proceedings should be recognised as foreign non-main proceedings

25 Under Art 15(1) of the Model Law, a foreign representative may apply to the court for recognition of the foreign proceeding in which the foreign representative has been appointed. Under Art 17(1), a proceeding must be recognised if four conjunctive requirements are met:

(a) it is a foreign proceeding within the meaning of Art 2(*h*);

(b) the person or body applying for recognition is a foreign representative within the meaning of Art 2(*i*);

(c) the application meets the requirements of Arts 15(2) and 15(3); and

(d) the application has been submitted to the court mentioned in Art 4.

In my view, all the requirements under Art 17(1) are met in the present case. I deal with each in turn.

Whether the US Proceedings are foreign proceedings

26 A "foreign proceeding" is defined in Art 2(*h*) of the Model Law as "a collective judicial or administrative proceeding in a foreign State, including an interim proceeding, under a law relating to insolvency or adjustment of debt in which proceeding the property and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganisation or liquidation". There are thus five cumulative requirements for a proceeding to qualify as a "foreign proceeding" (*Ascentra Holdings, Inc v SPGK Pte Ltd* [2023] 2 SLR 421 ("*Ascentra*") at [29]):

(a) the proceeding must be collective in nature;

(b) the proceeding must be a judicial or administrative proceeding in a foreign State;

(c) the proceeding must be conducted under a law relating to insolvency or adjustment of debt;

(d) the property and affairs of the debtor company must be subject to control or supervision by a foreign court in that proceeding; and

(e) the proceeding must be for the purpose of reorganisation or liquidation.

27 It is relatively uncontroversial that proceedings commenced in the US under Chapter 11 of the US Bankruptcy Code are generally foreign proceedings within the meaning of Art 2(*h*) of the Model Law (see *Re Tantleff* [2023] 3 SLR 250 ("*Tantleff*") at [33], citing *Re Rooftop Group International Pte Ltd* [2020] 4 SLR 680 and *Re Zetta Jet Pte Ltd* [2019] 4 SLR 1343 ("*Zetta*") at [25]). I also accept Drivetrain's submission that the US Proceedings are collective in nature in that they concern all creditors of the Company generally, deal with substantially all of the Company's assets and liabilities, and consider the rights and obligations of all creditors of the Company (see *Ascentra* at [104]–[105]).[23] In the premises, it appears clear that the US Proceedings are foreign proceedings as defined in Art 2(*h*) of the Model Law.

[23] AWS at para 27(a).

Whether Drivetrain is a foreign representative of the Company

28 Under Art 2(*i*) of the Model Law, a "foreign representative" means "a person or body, including one appointed on an interim basis, authorised in a foreign proceeding to administer the reorganisation or the liquidation of the debtor's property or affairs or to act as a representative of the foreign proceeding." The Confirmation Order authorises Drivetrain to take all actions necessary or appropriate to implement the Combined Disclosure Statement and Plan,[24] and this includes executing the necessary transactions contemplated by the Purchase Agreement. The Foreign Representative Order also authorises Drivetrain to act as a foreign representative of the Debtors (including the Company) in any non-US court.[25] I am therefore similarly satisfied that Drivetrain is a foreign representative of the Company as defined in Art 2(*i*) of the Model Law.

Whether the requirements in Arts 15(2) and 15(3) of the Model Law are met

29 Articles 15(2) and 15(3) of the Model Law set out further procedural requirements that must be satisfied in a recognition application. The provisions provide as follows:

> 2. An application for recognition must be accompanied by —
>
> (a) a certified copy of the decision commencing the foreign proceeding and appointing the foreign representative;
>
> (b) a certificate from the foreign court affirming the existence of the foreign proceeding and of the appointment of the foreign representative; or
>
> (c) in the absence of evidence mentioned in sub-paragraphs (*a*) and (*b*), any other evidence

[24] Drivetrain's First Affidavit at pp 428–429.

[25] Drivetrain's First Affidavit at p 688.

> acceptable to the Court of the existence of the foreign proceeding and of the appointment of the foreign representative.
>
> 3. An application for recognition must also be accompanied by a statement identifying all foreign proceedings and proceedings under Singapore insolvency law in respect of the debtor that are known to the foreign representative.

30 These procedural requirements have been satisfied in the present case. The supporting affidavit exhibited certified copies of the Confirmation Order (exhibiting the Combined Disclosure Statement and Plan), the Notice of Effective Date and the Foreign Representative Order.[26] The supporting affidavit also contained a statement identifying all foreign proceedings and Singapore proceedings (even those unrelated to Singapore insolvency law) in respect of the Company that are known to Drivetrain.[27]

Whether this court is the competent court

31 Article 17(1)(*d*) of the Model Law provides that the recognition application must be submitted to the court mentioned in Art 4. Article 4(1) in turn provides that the functions in the Model Law relating to recognition of foreign proceedings are to be performed by the General Division of the High Court. It is thus uncontroversial that the Recognition Application was made to the correct forum.

32 However, Art 4(2) of the Model Law provides that the court has jurisdiction in relation to the recognition of foreign proceedings if:

> (*a*) the debtor —

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26 Drivetrain's First Affidavit at pp 412–689.

27 Drivetrain's First Affidavit at para 34.

> (i) is or has been carrying on business within the meaning of section 366 of the Companies Act 1967 in Singapore; or
>
> (ii) has property situated in Singapore; or
>
> (*b*) the Court considers for any other reason that it is the appropriate forum to consider the question or provide the assistance requested.

33 Drivetrain initially submitted that this court has jurisdiction to hear the Recognition Application because the Company has assets in Singapore, *ie*, it relies on Art 4(2)(*a*)(ii) of the Model Law.[28] However, this was premised on Drivetrain's initial assumption that the Company's shares in Near Intelligence (India) are assets located in Singapore.

34 With respect, this appeared to be a faulty assumption. Yeo Tiong Min, *Commercial Conflict of Laws* (Academy Publishing, 2023) at para 14.015, citing *Macmillan Inc v Bishopsgate Investment Trust plc (No 3)* [1996] 1 WLR 387, explains:

> Shares in a company that are transferable by delivery (that is, bearer or order shares) in accordance with the law of its incorporation will be situated wherever the relevant document is situated at the relevant time. They are analogous to tangible property and treated alike. In other cases, the *situs* is the place of the incorporation of the company, but there may be cases, especially when registration is necessary to effect transfers, where the *situs* is the place where the share register is kept. …

There is no evidence that the Company's shares in Near Intelligence (India) are bearer shares or for some other reason transferable by delivery. It is thus likely that the *situs* of the shares is India, as that is where Near Intelligence (India) is incorporated and presumably where its share register would be kept. I

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[28] AWS at para 37; Drivetrain's First Affidavit at para 36.

highlighted this to Ms Cheang at the Second Hearing,[29] and although she initially maintained at the Second Hearing that the shares are "located in Singapore",[30] in subsequent correspondence with the court, Drivetrain's lawyers conceded that India is both the place of incorporation and where the share register is kept, and thus the shares are located in India.[31]

35 That then leaves the question of whether Drivetrain has any other assets located in Singapore such that this court still has jurisdiction pursuant to Art 4(2)(*a*)(ii) of the Model Law. In its initial supporting affidavit, Drivetrain claimed that, apart from the shares in Near Intelligence (India), there are no other known assets of the Company located in Singapore or otherwise.[32] However, in its further affidavit, Drivetrain exhibited a schedule of assets and liabilities of the Company as at 8 December 2023 which was filed in the US Proceedings. This schedule indicated that the Company had the following assets in Singapore: (a) 12 bank accounts with the Hongkong and Shanghai Banking Corporation Ltd and Citibank Singapore Ltd, with a combined balance of US$571,814.39; (b) an office with equipment and a computer, valued at US$6,519 collectively; and (c) two insurance policies with Chubb Insurance Singapore Ltd and Marsh (Singapore) Pte Ltd for commercial general liability and professional indemnity and errors and omissions.[33]

36 At the Second Hearing, I asked Ms Cheang whether these assets still belong to the Company, as the further affidavit appeared silent on their present

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29 MS (30 October 2025) at p 2.

30 MS (30 October 2025) at p 4.

31 Drivetrain's Letter at para 3.

32 Drivetrain's First Affidavit at para 26.

33 Drivetrain's Second Affidavit at paras 12(a) and 13(b) and pp 24, 31 and 36.

status. Ms Cheang confirmed that all these assets have been dealt with and there are no other assets left in Singapore.[34] In subsequent correspondence with the court, Drivetrain's lawyers confirmed once again that the Company does not presently have any assets located in Singapore.[35] It thus appears to me that this court does not have jurisdiction pursuant to Art 4(2)(*a*)(ii) of the Model Law.

37 Nonetheless, as I explained to Ms Cheang at the Second Hearing, I am satisfied that this court nonetheless does have jurisdiction pursuant to either Art 4(2)(*a*)(i) or Art 4(2)(*b*) of the Model Law.[36]

38 As mentioned at [35] above, the Company has, until very recently, been dealing with property located in Singapore. In its further affidavit, Drivetrain also explained that, as at 8 December 2023, the Company had one employee situated in Singapore,[37] although Ms Cheang confirmed at the Second Hearing that this employee is no longer with the Company.[38] Prior to the US Proceedings, the Company engaged the services of ICS Services Pte Ltd in Singapore to administer its local payroll.[39] The schedule of assets and liabilities of the Company filed in the US Proceedings also indicated that, as at 8 December 2023, the Company had 18 contracts and unexpired leases with counterparties in Singapore,[40] although Ms Cheang could not confirm at the Second Hearing whether any of these contracts and leases are still subsisting.[41]

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34 MS (30 October 2025) at pp 1–2.

35 Drivetrain's Letter at para 4.

36 MS (30 October 2025) at pp 2–3.

37 Drivetrain's Second Affidavit at paras 10 and 13(a).

38 MS (30 October 2025) at p 2.

39 Drivetrain's Second Affidavit at para 11.

40 Drivetrain's Second Affidavit at para 13(c) and pp 51–62.

41 MS (30 October 2025) at p 2.

On the whole, it is clear to me that the Company has been carrying on business in Singapore, at least up till the recent commencement of the US Proceedings on 8 December 2023, and thus the court's jurisdiction to hear the Recognition Application can be found in Art 4(2)(*a*)(i) of the Model Law.

39 In any event, it is also clear to me that this court is the appropriate forum to assist Drivetrain with its Recognition Application. As explained at [22]–[23] above, the purpose of this Recognition Application is to address the inconsistency between the Confirmation Order and the Combined Disclosure Statement and Plan on the one hand, and the Company's register of directors in Singapore on the other hand, as to who has authority to act on behalf of the Company. To the extent the Recognition Application seeks to confirm that the register of directors in Singapore is no longer an up-to-date reflection of where the seat of managerial control of the Company lies, I am of the view that the Singapore courts are the appropriate forum to make such a determination. In this regard, I echo the views expressed in *Re Thresh, Charles* [2023] SGHC 337 at [71]–[73], that there is a low threshold to establish jurisdiction under Art 4(2)(*b*) of the Model Law and that this provision must be interpreted in a manner which advances the purpose of the Model Law. In my view, clarifying the seat of managerial control of the Company will certainly promote the fair and efficient administration of the cross-border insolvency of the Company, and is in line with the objectives of the Model Law (see Preamble (*c*) of the Model Law). Thus, the court's jurisdiction to hear the Recognition Application can also be found in Art 4(2)(*b*) of the Model Law.

Whether the Company's COMI is in Singapore

40 Since the requirements in Art 17(1) of the Model Law are met, the US Proceedings must be recognised. That leaves the question of whether it should

be recognised as foreign main proceedings or as foreign non-main proceedings. In this regard, Art 17(2) provides that:

> 2. The foreign proceeding must be recognised —
>
> (a) as a foreign main proceeding if it is taking place in the State where the debtor has its centre of main interests; or
>
> (b) as a foreign non-main proceeding, if the debtor has an establishment within the meaning of Article 2(*d*) in the foreign State.

41 Article 2(*d*) of the Model Law defines "establishment" as "any place where the debtor has property, or any place of operations where the debtor carries out a non-transitory economic activity with human means and property or services". I accept Drivetrain's submission that the Company has an establishment in the US, not least because the Debtors (including the Company) maintain their headquarters in California, in the US.[42]

42 However, the next question is whether the nature and strength of the Company's jurisdictional connection with the US extends beyond having a mere establishment in the US to the US being its COMI (*Fullerton* at [3]). In this regard, relevant factors in determining the Company's COMI include (a) the location from which control and direction is administered; (b) the location of clients, creditors, employees and operations; (c) dealings with third parties; and (d) the governing law (*Zetta* at [85]).

43 Drivetrain primarily relies on the presumption under Art 16(3) of the Model Law that the debtor's registered office is presumed to be the debtor's COMI in the absence of proof to the contrary. Since the Company was

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[42] AWS at para 40(b); Drivetrain's First Affidavit at para 39 and p 473.

incorporated in Singapore and has its registered office here, Drivetrain submits that the Company's COMI is in Singapore.[43]

44 The presumption under Art 16(3) of the Model Law is a rebuttable presumption which the court must use as the starting point for the inquiry into the debtor's COMI (*Fullerton* at [45], [49] and [56]). The burden is normally on the party asserting that the COMI is at a place other than the registered office to establish "proof to the contrary" on a balance of probabilities (*Fullerton* at [61] and [73]). However, where the recognition application is unopposed, the court is still duty-bound to undertake a holistic assessment of the evidence before it to satisfy itself on the location of the debtor's COMI (*Fullerton* at [91]), and the foreign representative is subject to a duty of full and frank disclosure (*Fullerton* at [92]–[93]).

45 In its initial supporting affidavit, Drivetrain disclosed the following information relevant to the determination of the Company's COMI:[44]

> (a) Location of the Company's control and direction: As at the date of this Application and from the Effective Date, the Confirmation Order grants the Applicant power to act for the Company in the same capacity as applicable to a board of directors …, subject to this Honourable Court's recognition of the same. The Applicant is based in the United States of America, where the centralised administration and key liquidation activities for the Debtors, including the Company, are presently taking place under the supervision of the US Bankruptcy Court.
>
> (b) Location of operations: As mentioned above, the Debtors maintain their headquarters in Pasadena, California, but the Company operates in Singapore.
>
> (c) Location of the Company's creditors: To-date, the Litigation Trustee has received 45 Proofs of Claim(s)

[43] AWS at para 41; Drivetrain's First Affidavit at para 38.

[44] Drivetrain's First Affidavit at para 41.

> from creditors of the Company located in the United States of America, Singapore, Germany, Belgium, United Kingdom and India.

46 As alluded to at [15] above, I informed Ms Cheang at the First Hearing that these disclosures did not shed much light to assist the court in ascertaining the Company's COMI.[45] Indeed, they raised more questions than they answered. While the Confirmation Order may have granted Drivetrain authority to control and direct the Company, that does not address whether, in substance, Drivetrain has been acting on behalf of the Company, and if so, how Drivetrain's acts compare with those undertaken by the Company's existing directors (if any). Likewise, merely stating that the Company operates in Singapore but has its headquarters in California was, with respect, somewhat unhelpful. One is inevitably invited to question the scope and scale of the Company's operations in Singapore, and how that compares with the Company's presence in California by virtue of its headquarters being there. The fact that there are presently 45 proofs of claims from the Company's creditors from various countries also tells the court nothing as to the relative proportion of creditors from each jurisdiction in terms of the absolute number of creditors as well as the value of their claims. It was in those circumstances that I directed Drivetrain to file a further affidavit setting out more information regarding the Company's COMI, with specific emphasis on the Company's operations in Singapore.

47 In its further affidavit, Drivetrain explained that, prior to the US Proceedings, the Debtors operated a global full-stack data intelligence platform that provided software-as-a-service. The Company served as the parent company and administrative head for non-US subsidiaries in India, Australia

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[45] NE (25 September 2025) at 4:29–7:4.

and France.[46] Drivetrain also disclosed the nature of the Company's assets and operations in Singapore, which has been set out in some detail at [35], [36] and [38] above. For completeness, I should add that the Company also had another employee, the Debtors' Chief Financial Officer, who was situated in both Singapore and the US, and whose employment was terminated in November 2023.[47] Additionally, apart from the 18 contracts and unexpired leases with counterparties in Singapore, as at 8 December 2023, the Company also had 12 contracts and unexpired leases with counterparties in the US, and 25 contracts and unexpired leases with counterparties in, *inter alia*, Japan, the Netherlands, Malaysia, India, Australia, Germany and the UK. To the best of Drivetrain's knowledge, these contracts were generally governed by Singapore law, save for various service agreements which were governed by the local law where the counterparty was situated.[48]

48 It should be borne in mind that a debtor's COMI should be assessed as at the date of the recognition application (*Fullerton* at [95]). Historical facts exist on a sliding scale of relevance and their weight should be calibrated based on their relevance to the issue of the debtor's COMI at the relevant time. The more far removed a factor or event is from the relevant time, the less relevant it would be such that little to no weight would be accorded to it (*Fullerton* at [101]) It was thus insufficient for Drivetrain to disclose, in its further affidavit, information regarding the Company's operations as at 8 December 2023 when the US Proceedings were first filed; and that is why, at the Second Hearing, I required Ms Cheang to confirm whether those disclosures remain factually correct as at the date of this Recognition Application. It should also be kept in

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46 Drivetrain's Second Affidavit at paras 7–8.

47 Drivetrain's Second Affidavit at para 10.

48 Drivetrain's Second Affidavit at paras 13(c)–13(d) and pp 51–62.

mind that COMI is a relative concept. Even if the debtor bears no connection to the registered office other than the fact of registration, if there is no evidence of a stronger connection to any other jurisdiction, the registered office would be the debtor's COMI even if the debtor's connection to it is, objectively speaking, tenuous (*Fullerton* at [69]).

49 In the present case, it appears the connection the Company has with Singapore extends beyond its registered office. As explained above, up until very recently, the Company had assets in Singapore, had two employees in Singapore, and had a sizeable number of its contracts with counterparties based in Singapore. While these connections now appear to be historical, I accord them significant weight because it appears the Company only began to wind down its operations in Singapore after the recent commencement of the US Proceedings. Most importantly, there is no compelling evidence to suggest that another jurisdiction has a stronger connection with the Company. Thus, I am satisfied that the presumption in Art 16(3) of the Model Law is not rebutted, and that the Company's COMI is in Singapore.

50 Given that the Company's COMI is in Singapore, the US Proceedings should be recognised as foreign non-main proceedings, pursuant to Art 17(2)(*b*) of the Model Law.

Prayer 2: Whether Drivetrain should be recognised as the foreign representative of the Company

51 Given that I have decided to grant Prayer 1, and in doing so have determined Drivetrain to be a foreign representative of the Company within the meaning or Art 2(*i*) of the Model Law (see [28] above), it follows that I should grant the order recognising Drivetrain as the foreign representative of the Company.

Prayer 3: Whether the Confirmation Order, the Combined Disclosure Statement and Plan, and the Notice of Effective Date should be recognised and enforced in Singapore

52 Under Art 21(1) of the Model Law, the foreign representative may, upon the recognition of the foreign proceeding, request that the court grant any appropriate relief necessary to protect the property of the debtor or the interests of the creditors. Such relief may extend to the recognition and enforcement of foreign insolvency orders and judgments (*Garuda* at [142]). It has also been clarified that the proper basis for recognition and enforcement of foreign court orders lies in the *chapeau* to Art 21(1) (*ie*, under the limb "any appropriate relief") and not Art 21(1)(*g*) (*Garuda* at [145]; *Re Quoine Pte Ltd* [2025] 3 SLR 1536 at [62]). However, in granting such relief, the court is not merely acting as a "rubber-stamp" and must carefully scrutinise the circumstances in which the foreign court order was granted and ensure that interested parties are given an opportunity to be heard and that the relevant creditors and shareholders are adequately protected. This requirement is also encapsulated in Art 22(1) which provides that the court, in granting relief under Art 21, must be satisfied that the interests of the creditors and other interested persons, including if appropriate the debtor, are adequately protected (*Tantleff* at [81]).

53 In *Tantleff*, the applicant sought recognition of a court order and a liquidation plan issued in proceedings commenced under Chapter 11 of the US Bankruptcy Code. Aidan Xu @ Aedit Abdullah J took into account the fact that the US proceedings were supervised and approved by the US Bankruptcy Court, the requisite voting requirements for the US order and plan were properly satisfied, there was an opportunity for creditors to be heard by the US Bankruptcy Court, and the creditors were duly notified about the US proceedings (and the US court orders) as well as the recognition application in

Singapore. Xu J thus concluded that the interests of relevant parties were adequately protected and granted recognition of the US order and plan (*Tantleff* at [82]–[83]).

54 In *Re Terraform Labs Pte Ltd* [2025] 3 LR 1516 ("*Terraform*"), the applicant similarly sought recognition of a court order and liquidation plan issued in proceedings commenced under Chapter 11 of the US Bankruptcy Code. James Michael Peck IJ took into account how the US proceedings complied with applicable law and followed proper procedures of notice and providing an opportunity to be heard. Such strict adherence to due process of law was a factor that weighed in favour of granting recognition (*Terraform* at [59]–[60]). In particular, Peck IJ noted that the US Bankruptcy Code's commitment to protecting the rights of creditors assured adequate protection to creditors and satisfied the requirement under Art 22(1) of the Model Law (*Terraform* at [62]). Peck IJ cited *Tantleff* and said that Xu J's observations in that case were equally true of the liquidation plan before him, and that the US proceedings were comparable to what Xu J had evaluated in *Tantleff* (*Terraform* at [63]–[64]).

55 In the present case, Drivetrain submits that the US Proceedings leading up to the Confirmation Order complied with applicable law, followed proper procedures of notice, and all interested parties and creditors were given an opportunity to be heard. The Combined Disclosure Statement and Plan was endorsed by a committee of unsecured creditors appointed by the Office of the United States Trustee for the District of Delaware to represent the interests of all unsecured creditors. The Combined Disclosure Statement and Plan was also accepted by two classes of impaired creditors. Despite the rejection by other classes of impaired creditors, the US Bankruptcy Court found that the plan does not discriminate unfairly and is fair with respect to each class of creditors that

rejected the plan. The US Proceedings were supervised and approved by the US Bankruptcy Court and the requisite voting requirements were conducted in compliance with the US Bankruptcy Code. There was opportunity for creditors and other parties to be heard by the US Bankruptcy Court.[49]

56 There is no reason to doubt Drivetrain's submissions or to have any concerns about the propriety of the US Proceedings. Much like Peck IJ in *Terraform*, I am of the view that the US Proceedings in this case are comparable to that evaluated by Xu J in *Tantleff*. I am thus satisfied that the requirement in Art 22(1) of the Model Law is met. Further, I am satisfied that the recognition and enforcement of the Confirmation Order, the Combined Disclosure Statement and Plan, and the Notice of Effective Date in Singapore would facilitate the fair and efficient administration of the Company's assets and is necessary to protect the interests of its creditors (*Garuda* at [156]).

Prayer 4: Whether Drivetrain should be granted permission to withdraw Prayer 4

57 Article 21(1)(*e*) of the Model Law provides that the court may entrust the administration or realisation of all or part of the debtor's property located in Singapore to the foreign representative or another person designated by the court. It is one of the reliefs listed under Art 21(1) discussed above.

58 As alluded to at [10] above, Drivetrain initially sought Prayer 4, which is an order that it be entrusted with the administration, realisation and distribution of all of the Company's property and assets located in Singapore, pursuant to Art 21(1)(*e*) of the Model Law. Drivetrain initially claimed that this will allow it to take control of the Company's shares in Near Intelligence (India)

[49] AWS at para 48.

and effect its transfer to the Purchaser.[50] However, as I explained at [34] above, the shares are property located in India. Since relief granted under Art 21(1)(*e*) only applies to property located in Singapore, even if I had granted Prayer 4, it would, in theory, have no impact on the Company's shares in Near Intelligence (India). I highlighted this to Ms Cheang at the Second Hearing,[51] and adjourned the matter so that Ms Cheang could take instructions from Drivetrain on whether to proceed with Prayer 4. In subsequent correspondence with the court, Drivetrain's lawyers confirmed that Drivetrain no longer requires Prayer 4. Upon further reflection, Drivetrain agreed with the court's indication to it that the shares are property located in India, and because it presently does not have any known assets located in Singapore, it sought the court's permission to withdraw Prayer 4.[52] I grant Drivetrain permission to do so as I agree that, in the absence of any property located in Singapore, Prayer 4 appears unnecessary.

59 That said, it would be useful for me to make two further points by way of brief observations.

60 First, Drivetrain's initial formulation of Prayer 4 included the power to "distribute" the Company's property located in Singapore. To be clear, Art 21(1)(*e*) of the Model Law makes no mention of such a power. It is only Art 21(2) which refers to, and by extension appears to recognise, the power to "distribute". Thus, it would have been more appropriate for Drivetrain to formulate Prayer 4 with reference to Art 21(2) as well.

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50 AWS at para 50.

51 MS (30 October 2025) at p 3.

52 Drivetrain's Letter at para 4.

61 Second, the withdrawal of Prayer 4 does not detract from my decision that the Confirmation Order should be recognised and enforced in Singapore by virtue of Prayer 3. It should be kept in mind that the Confirmation Order authorises Drivetrain to take all actions necessary or appropriate to implement the Combined Disclosure Statement and Plan, including executing the necessary transactions contemplated by the Purchase Agreement, such as those in relation to the Company's shares in Near Intelligence (India) (see [28] above). In a similar vein, the Confirmation Order also grants Drivetrain the power to act for the Company in the same capacity as applicable to a board of directors (see [13] above). In other words, as far as the Singapore courts are concerned, Drivetrain does have the authority to deal with the Company's shares in Near Intelligence (India), by virtue of the Confirmation Order. Of course, it is an entirely separate matter if Drivetrain requires the share transfer to be reflected on the share register in India or if there is litigation over the share transfer before the courts in India. Whether the registrar of companies or the courts in India would similarly recognise Drivetrain's authority to deal with the shares is not a matter this court can, or should, comment on.

Conclusion

62 For the reasons set out above, I grant the Recognition Application in relation to Prayers 1, 2 and 3.

Mohamed Faizal
Judicial Commissioner

Justin Yip Yung Keong and Cheang Hui Xuan (Withers KhattarWong LLP) for the applicant.