



**IN THE COURT OF THE CAYMAN ISLANDS  
FINANCIAL SERVICES DIVISION**

**NEUTRAL CITATION NUMBER: [2025] CIGC (FSD) 21**

**CAUSE NO. FSD 128 of 2021 (RPJ)**

**IN THE MATTER OF THE COMPANIES ACT (2021 REVISION)**

**AND IN THE MATTER OF SINA CORPORATION**

**Before:** The Hon. Justice Raj Parker

**Appearances:** Stephen Atherton KC instructed by Harneys on behalf of the  
Petitioner  
Jonathan Adkin KC instructed by Campbells, Carey Olsen and Collas  
Crill on behalf of all of the 58.com Dissenters  
Ewan McQuater KC instructed by Collas Crill, Mourant and Ogier  
on behalf of certain of the Dissenters  
Tom Lowe KC instructed by Carey Olsen on behalf of certain of the  
Dissenters

**Heard:** 7 March 2025

***Ex tempore* ruling delivered:** 7 March 2025

**Draft transcript of *ex tempore***

**Ruling circulated:** 10 March 2025

*250307 In the matter of Sina Corporation – FSD 128 of 2021 (RPJ) - Ruling*

**Transcript of *ex tempore*****Ruling delivered:** 14 March 2025

*Use of transcripts in unrelated s.238 proceedings for purposes of cross examination of the same expert witness in both proceedings-lateness-fairness-utility-risk of inconsistent findings*

*Ex tempore**Introduction*

1. The Dissenters in these proceedings together with certain of the dissenters in the *58.com* proceedings object to the use by the Company of part of the transcript of trial in *58.com* in these proceedings for the purpose of cross examining an expert witness common to both cases.
2. The Chief Justice heard the *58.com* proceedings in open court during July and August 2024 and has not yet given judgment. The Company was, and is not, a party to that case.
3. Professor Yilmaz, the expert instructed by the Dissenters in these Proceedings, was also the expert instructed by the dissenters in the *58.com* proceedings. Certain of the expert evidence in the *58.com* proceedings is said by the Company to traverse the same issues that arise in these Proceedings.
4. The Company recently requested copies of the transcript of the testimony of the valuation expert witnesses in the *58.com* proceedings from the dissenters in the *58.com* proceedings, but its request was denied.
5. Subsequently, copies of the transcript of the *58.com* proceedings were provided to Harneys who act for the Company in these proceedings by *58.com* itself (apparently a client of Harneys' but who did not appear on the court record for the purposes of the trial in the *58.com* proceedings).

*Purpose*

6. The Company says that it may wish to use and/or rely on certain parts of the transcript in the *58.com* proceedings (namely the cross-examination of Professor Yilmaz in the *58.com*

*250307 In the matter of Sina Corporation – FSD 128 of 2021 (RPJ) - Ruling*

proceedings) which it says may need to be put to Professor Yilmaz in circumstances where, for example, it may show previous inconsistent statements/opinions and where the making of such statements by Professor Yilmaz is denied at trial.

7. Such matters, the Company says, do not go to credit alone, but go to certain assumptions and opinions given by Professor Yilmaz which are directly relevant to matters in issue in this case and the identification of which may be of assistance to the Court.
8. Professor Yilmaz is due to start his evidence in these proceedings on Monday, 10 March 2025.
9. Mr Atherton KC for the Company submitted that the scope of the Application is limited. As matters currently stand, and prior to hearing Professor Yilmaz's evidence in cross-examination, he currently proposes to use (only if considered to be necessary) certain passages of Professor Yilmaz's testimony in the *58.com* proceedings that relate to, for example: (i) post-covid market recoverability; (ii) the composition of a special committee in fair value appraisal matters in relation to process generally; (iii) the use of market trading prices and in particular methodology; and (iv) the use of a company's projections in fair value appraisal matters. He does however, reserve the right to use and/or rely on further passages of the transcript in the *58.com* proceedings should the need arise during the course of Professor Yilmaz's cross-examination.
10. He further submitted that upon review of the *58.com* transcript, certain of the testimony of Professor Yilmaz is of direct relevance to the points at issue in these proceedings. Depending on Professor Yilmaz's answers in cross-examination it might be necessary to put the transcripts of his evidence in the *58.com* proceedings to Professor Yilmaz, to test the reliability of his evidence and allow the Court to assess the weight that may be given to certain opinions that he has expressed in these Proceedings.

#### *Objections*

11. Mr Jonathan Adkin KC appeared at short notice via video link to make submissions for the dissenters in *58.com*.
12. He pointed to principles of fairness and appropriateness in the court being asked to exercise its case management powers in circumstances where judgment is awaited in *58.com*.

*250307 In the matter of Sina Corporation – FSD 128 of 2021 (RPJ) - Ruling*

13. He submitted
- a) that the Company is inviting comment by this Court on Professor Yilmaz' evidence given in *58.com*;
  - b) that risks those comments being deployed by *58.com* to influence the Chief Justice before she has handed down judgment; and
  - c) that the *58.com* dissenters have been and are prejudiced by the inexcusable lateness of this application.
14. He submitted that the *58.com* dissenters' interests are obviously engaged. It has been difficult for them to deal with the application as it has arisen in this trial. There is no prospect of them being represented next week, when Professor Yilmaz gives evidence, to protect their interests.
15. He stressed that the context is vitally important in relation to *58.com* in relation to the matters sought to be raised by the Company in this case.
16. Mr McQuater KC for certain of the Dissenters in these proceedings objected to the Company's proposed use of the transcripts from the *58.com* case because the application was made too late, was tactical in order to cause difficulty to the Dissenters and to Professor Yilmaz, was unfair, lacked utility and posed a risk of inconsistent findings with the *58.com* proceedings.
17. Mr Lowe KC for certain of Dissenters in this case additionally referred the Court to the rules of evidence in the Evidence Act (2021 Revision) relating to hearsay and admissibility and the timetable which applies by virtue of Order 38 of the Grand Court Rules. He submitted that the case management decision on this application is affected by those provisions which set out a fair procedure.

#### *Decision*

18. There is no issue which arises as to the admissibility or nature of the transcripts of evidence provided in open court in the *58.com* proceedings which would ordinarily justify their exclusion

or limitations on their use. Any required purpose and interest have been made out by the Company in this case.

19. The real question then becomes a case management one of fairness and utility in deploying the transcripts from *58.com* for the purposes of cross-examination of Professor Yilmaz next week as set out by Mr Atherton KC.
20. Expert reports in this case were exchanged on 16 October 2024 and 6 January 2025.
21. We are at day 15 of a 20-day trial.
22. Professor Yilmaz has been seriously unwell and we are therefore not starting his evidence until Monday. His cross-examination by the Company is set to last for the most part of next week.
23. The *58.com* trial took place last summer between July and September 2024.
24. The Court has been told (from Harneys' letter of 25 February 2025) that representatives of the Company's legal team were in attendance for parts of the trial and particularly for the examination of the valuation experts. They were perfectly entitled to attend as the proceedings were in open court.
25. However, the Company first intimated that it may wish to rely on transcripts from the *58.com* case only on 11 February 2025, almost 6 months after the conclusion of the *58.com* trial and just six days before the start of these proceedings, having recently obtained them from *58.com*.
26. This is very late in the day. Mr Atherton KC did not seek to persuade the Court otherwise.
27. The Court has concluded that if the Company wanted to make use of the evidence Professor Yilmaz gave in *58.com* it should have taken steps to do so much earlier, and well before the Pre-Trial Review on 24 January 2025, so that the matter could have been considered when directions were made for this trial and all relevant parties could be heard.
28. It does not seem to the Court fair to the Dissenters or indeed to Professor Yilmaz in the middle of a heavy trial and in all the circumstances to burden them with getting to grips with transcripts of previous testimony given by Professor Yilmaz in different section 238 proceedings.

29. Neither is it fair to the *58.com* dissenters for the cogent reasons set out by Mr Adkin KC.
30. In addition, whilst these fair value appraisal cases have certain similarities of which the Court is well aware, the commercial context and facts are specific to each case and sometimes unique.
31. The experts have an overriding duty to assist the Court, to be independent and neutral of the party instructing them. They are not beholden to the interests of the parties which instruct them.
32. The Court has not been persuaded of the quality of assistance that will be derived by it from the cross-examination of Professor Yilmaz that Mr Atherton KC proposes on the issues he has identified. This is to be balanced against the clear prejudice that will be caused to the Dissenters and Professor Yilmaz by the proposed course of action.
33. Any evidence that Professor Yilmaz provides in relation to the transcript of his evidence in *58.com* will have to be explained from the *58.com* perspective, which the Dissenters and their legal teams as well as the Court are unfamiliar with.
34. That is unlikely in the Court's view to be a productive process. This Court has no knowledge of the detail of the issues or evidence given in the *58.com* proceedings and no access to any of the materials, including expert reports, which are likely to be needed to properly evaluate any suggestion of inconsistency or reliability on Professor Yilmaz' part.
35. The Court would also be loath to make any such findings in circumstances where the Chief Justice has not yet handed down her own judgment in *58.com*.
36. It follows that the application is dismissed.



---

**THE HON. JUSTICE RAJ PARKER**  
**JUDGE OF THE GRAND COURT**