Neutral Citation Number: [2025] CIGC (FSD) 55

Cause No: FSD 2024-0335 (JAJ)

IN THE GRAND COURT OF THE CAYMAN ISLANDS

FINANCIAL SERVICES DIVISION

BETWEEN:

JIE "IRENE" SHEN

Plaintiff

-and-

(1) INSPIRE INC.

(2) XIAOHU "TIGER" QIE

Defendants

Appearances:	**Mr Paul Smith and Ms Moesha Ritch of Forbes Hare for the Plaintiff** **Mr Jamie McGee of Nelsons for the Second Defendant**
Before:	**The Honourable Justice Jalil Asif KC**
Heard:	**9 May 2025**
Ex tempore judgment delivered:	**9 May 2025**
Finalised judgment approved:	**19 June 2025**

Practice and procedure— letter of request from foreign court pursuant to Evidence (Proceedings in Other Jurisdictions) (Cayman Islands) Order 1978—approach to requirement that request identify specific documents

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JUDGMENT

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1. This is an application by originating summons filed on 13 November 2024 for an order for discovery and production by the First Defendant of certain documents. The First Defendant is a company incorporated in the Cayman Islands. The request for discovery is made pursuant to a letter of request issued by the United States Superior Court of California, County of Santa Clara, in Case No. 21FL003738. That matter concerns the divorce of the Plaintiff and the Second Defendant, arrangements for maintenance and the distribution of the former matrimonial assets between the Plaintiff and the Second Defendant. The Second Defendant has disclosed within the divorce proceedings that he owns or owned a large number of share options in the First Defendant company, the exercise of which appears to be subject to a time limit which may already have expired. The fact that the Second Defendant has included the share options in his list of assets suggests that they do still exist. Nevertheless, he has attributed a value of US $0 to the share options in the divorce proceedings. The Plaintiff disputes that valuation, and there is a suggestion in the material before me that the share options may be worth more than US $70 million if they still exist and are still exercisable by the Second Defendant. They are therefore clearly material to the outcome of the divorce proceedings. The letter of request records that the Second Defendant has stated in the California proceedings that he is unable to give discovery regarding the share options as any relevant documents are not within his possession, custody or control.

2. Against that background, the court in California seeks assistance in obtaining discovery regarding any shares in the First Defendant or its subsidiaries owned by the Second Defendant legally or beneficially (assuming that the share options have been exercised), the share options themselves and any other employment-related agreements regarding allocations of shares, share options and similar. The relief sought in the summons is as follows:

> *"1. The Defendant do produce copies of the following documents or other property, such copies to be duly marked for inspection;*
>
> *a) registers or other records of the shareholders of Inspire Inc. (including when it was named Xingin International Holding Limited) since 2015 that mention Xiaohu "Tiger" Qie;*

b) registers or other records of beneficial owners of Inspire Inc. (including when it was named Xingin International Holding Limited) since 2015 that identify Xiaohu "Tiger" Qie;

c) records since 2015 identifying the quantum or value of Xiaohu "Tiger" Qie's stock, option, or other financial holdings or interests in Inspire Inc. or Xingin International Holding Limited, XiaoHongShu (also known as "Little Red Book"), or other Inspire Inc. subsidiary, portfolio company, or affiliate; and

d) employment-related agreements between Inspire Inc. or Xingin International Holding Limited, on the one hand, and Xiaohu "Tiger" Qie, on the other, relating to Mr Qie's stock or option holdings in Inspire Inc. or Xingin International Holding Limited, including but not limited to agreements dated on or around 24 October 2015 and 29 December 2017 relating to options to purchase shares, as well as employment offers and agreements. All documents should be duly marked for identification.

2. A director or other authorized person at Maples Corporate Services Limited do make an affidavit certifying that the documents to be produced were kept in the ordinary course of business, such affidavit to be substantially in the same form as Schedule A appended to the Letter of Request dated 10 July 2024 in case number 21FL003738 given by the United States Superior Court of California, County of Santa Clara; and

3. The Plaintiff do pay the costs of Inspire Inc. in compliance with this Order, such costs to be taxed on the standard basis if not agreed; and

4. Such further or other relief as the Court sees fit."

3. The matter was initially listed for hearing before me on 10 January 2025. Shortly before that hearing, the First Defendant indicated to the Plaintiff that it was willing to discuss provision of the requested discovery on an unopposed basis. I therefore agreed to the joint request of the Plaintiff and the First Defendant to vacate that hearing. It appears that a large measure of agreement was reached between the Plaintiff and the First Defendant regarding the discovery to be provided in response to the letter of request. The hearing before me today on 9 May 2025 is the first occasion on which this matter has come back before me since January 2025.

4. The First Defendant has not attended the hearing and is not represented before me today because it is essentially taking a neutral position and has indicated that it will comply with any order for discovery that is made.

5. However, shortly before the commencement of the hearing of this application, on 7 May 2025, the Second Defendant applied to be joined to oppose the making of any order for discovery. I heard that summons first today and ordered the Second Defendant to be joined to make whatever objections he wishes to make.

6. Mr Jamie McGee of Nelsons, who appears for the Second Defendant, focuses on the breadth of the production requests contained in the letter of request, but does not concede that it is appropriate in principle to make any order for discovery pursuant to the letter of request. Nevertheless, he does not and does not wish to make any further oral representations on the issue of principle.

7. Dealing with that question first, Mr Paul Smith of Forbes Hare, who appears before me on behalf of the Plaintiff, has taken me through the Evidence (Proceedings in Other Jurisdictions) (Cayman Islands) Order 1978. This provides the jurisdictional basis for making the order sought by the Plaintiff. Paragraph 1 of the Order states:

> *"1. Where an application is made to the Grand Court for an order for evidence to be obtained in the Cayman Islands, and the court is satisfied—*
>
> *(a) that the application is made in pursuance of a request issued by or on behalf of a court or tribunal ("the requesting court") exercising jurisdiction in a country or territory outside the Cayman Islands; and*
>
> *(b) that the evidence to which the application relates is to be obtained for the purposes of civil proceedings which either have been instituted before the requesting court or whose institution before that court is contemplated,*
>
> *the Grand Court shall have the powers conferred on it by the following provisions of this Act."*

8. Both of those requirements are met in this case. The letter of request is issued by the court in California, and the letter of request relates to civil proceedings before that court that have already been instituted. The jurisdiction of the Grand Court to make orders in support of the letter of request is therefore established to my satisfaction.

9. Regarding the form of the order sought by the Plaintiff, so far as relevant, paragraph 2 of the Evidence Order provides as follows:

> *"2. (1) Subject to the provisions of this section, the Grand Court shall have power, on any such application as is mentioned in section 1 above, by order to make such provision for obtaining evidence in the Cayman Islands as may appear to the court to be appropriate for the purpose of giving effect to the request in pursuance of which the application is made; and any such order may require a person specified therein to take such steps as the court may consider appropriate for that purpose.*
>
> *(2) Without prejudice to the generality of subsection (1) above but subject to the provisions of this section, an order under this section may, in particular, make provision—*
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> *(a) for the examination of witnesses, either orally or in writing;*
>
> *(b) for the production of documents;*
>
> *(c) for the inspection, photographing, preservation, custody or detention of any property;*

> *(d) for the taking of samples of any property and the carrying out of any experiments on or with any property;*
>
> *(e) for the medical examination of any person;*
>
> *(f) without prejudice to paragraph (e) above, for the taking and testing of samples of blood from any person.*
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> *(3) An order under this section shall not require any particular steps to be taken unless they are steps which can be required to be taken by way of obtaining evidence for the purposes of civil proceedings in the court making the order (whether or not proceedings of the same description as those to which the application for the order relates); but this subsection shall not preclude the making of an order requiring a person to give testimony (either orally or in writing) otherwise than on oath where this is asked for by the requesting court.*
>
> *(4) An order under this section shall not require a person—*
>
> *(a) to state what documents relevant to the proceedings to which the application for the order relates are or have been in his possession, custody or power; or*
>
> *(b) to produce any documents other than particular documents specified in the order as being documents appearing to the court making the order to be, or to be likely to be, in his possession, custody or power."*

10. The argument before me today has mainly focused on the effect of paragraph 2(4)(b) of the Evidence Order, in light of two authorities that have been relied on by counsel. The first is the Court of Appeal's decision in *United States v Carver* [1980-83] CILR 297 and the second is a judgment of Doyle J in *SEC v Terraform Labs Pte Ltd* (unreported, 13 December 2023, FSD2023-0302).

11. For present purposes, I can focus on the judgment in *SEC v Terraform Labs Pte Ltd*. At paragraph 19, Doyle J summarised the principles to be drawn from *United States v Carver* as follows:

> *"19. In* United Staves v Carver *1980–83 CILR 297 Rowe JA sitting in the Court of Appeal considered the Order. It was held that … [t]he Cayman court will ordinarily give effect to a request so far as it is proper and practicable and to the extent that is permissible under the law of the Cayman Islands. This principle reflects judicial comity. It is the duty and pleasure of the Cayman court to do all it can to assist the foreign court. The Cayman court has first to decide whether it has jurisdiction and if it has whether as a matter of discretion it ought to make or refuse to make such an order. As a matter of jurisdiction and in the absence of evidence to the contrary the Cayman court should be prepared to accept the statement of the foreign court in its request that the evidence is required for the purposes of civil or criminal proceedings, as the case may be, in that court. The form of the letter of request is not however conclusive. The court must examine the request objectively and it has to look at the substance of the matter, but it may have regard to what was said in the foreign court when the request for evidence was issued. As a matter of discretion, the Cayman court should exercise its discretion to make the order asked for unless it is satisfied that the application would be regarded as falling within the description of frivolous, vexatious or an abuse of the process of the court. The Cayman court has power to accept or reject the foreign request in whole or in part, whether as to oral or documentary evidence. It can and should delete from the foreign request any parts that are excessive. The Cayman court will act on the principle that it should salve what it can, but should decline to comply with the foreign request in so far as it is not proper, permissible or practicable under the laws of the Cayman Islands to give effect to it. The Cayman court ought not to embark on the process of restructuring or re-*

> *casting or re-phrasing the foreign request so that it becomes different in substance from the original request. The court has no power so to modify the original foreign request as to substitute a different category of documents for the category which has been requested by the foreign court (pages 309–311 relying on English principles).”*

12. At paragraph 24, Doyle J referred to the decision of Smellie J (as he then was) in *Voluntary Purchasing Group Inc v Insurco International Ltd* [1994-95] CILR 84 and set out the following quotations from the judgment in that case:

> *“24. … At page 89 Smellie J stated:*
>
> > *‘Put in general terms this court has a duty to assist the foreign court to the extent it is proper to do so under local law … Full faith and credit must be given to the request of the foreign court just as full faith and credit would be given to a foreign judgment.’*
>
> *At page 97 Smellie J referred to section 2(4)(b) of the Evidence Order and stated:*
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> > *‘The test to be applied in relation to the production of documents is whether ‘particular documents’ were specified, that is, individual documents separately described, although it is permissible to have a compendious description of several documents, provided that evidence of the actual documents is produced to satisfy me that they do exist or at least have existed … Whether those general standards may be satisfied in the context of any particular case will necessarily depend on the circumstances …’”*

13. Drawing from Doyle J’s review of the relevant authorities, I can set out the following seven principles, based on his formulation at paragraph 34 of his judgment with some minor added elaborations:

13.1 The Grand Court will ordinarily give effect to a letter of request from a foreign court for assistance in obtaining evidence for the purpose of proceedings in that foreign court so far as it is proper and practicable and to the extent that it is permissible under local law. This principle reflects judicial and international comity and conforms with the spirit of the relevant Convention.

13.2 The Grand Court first has to decide whether it has jurisdiction and secondly, if it has, whether as a matter of discretion it ought to make or refuse to make an order.

13.3 The Grand Court should normally be prepared to accept the statement of the foreign court in its request that the evidence is required for the purposes of civil proceedings in that foreign court. The form of the letter of request is not however conclusive. The Grand Court should examine the letter of request objectively and look at the substance of the matter.

13.4 As a matter of discretion, the Grand Court should normally exercise its discretion in principle to make the order requested unless it is satisfied that the application is frivolous, vexatious or an abuse of the process of the court.

13.5 The Grand Court has power to accept or reject the request from the foreign court in whole or in part, whether as to oral or documentary evidence. The Grand Court will act on the principle that it should save what it can to give effect to it but should excise from the order any parts of the request that are contrary to Cayman Islands law or practice or are excessive or impracticable, either as regards witnesses or as regards documents. The Grand Court should not, however, attempt to restructure, recast or rephrase the request so that it becomes different in substance from the original request. The Grand Court should not modify the request to substitute a quite different category of documents for the category which has been requested by the foreign court.

13.6 The issue of relevance normally falls to be determined by the foreign court, which is in control of the proceedings for which the assistance of the Grand Court has been requested.

13.7 The foreign court should be afforded the fullest help it is possible to give.

14. I have already confirmed that the jurisdictional requirements to make an order have been satisfied in this case. The next step is to consider in principle whether I should make an order in support of the California court's letter of request. I have considered the objections in principle that are advanced in the Second Defendant's evidence but have not been advanced orally by Mr McGee on behalf of the Second Defendant, including the Second Defendant's argument that the Plaintiff is seeking to oppress his rights by intending to use the documents for improper purposes and that the Plaintiff already has the documents in question as a result of her possession of the Second Defendant's laptop.

15. I have read the affidavits on both sides, including Mr Wang's affidavit sworn yesterday responding to the Second Defendant's affidavit on this topic. I am satisfied that the Second Defendant's objections to disclosure in principle are not meritorious and are not made out. This conclusion is supported by the fact that the judge in California concluded that obtaining these documents is necessary for the proper determination of the issues before that court.

16. Turning to the scope of documents to be provided pursuant to a letter of request and the limitation arising under paragraph 2(4)(b) of the Evidence Order, in *Carver* Rowe JA said the following starting just above the bottom of page 318 where he considered the approach of the English House of Lords in *Rio Tinto Zinc Corp v Westinghouse Electricity Corp* [1978] AC 547; [1977] 3 All E.R. 703:

> *"The Master of the Rolls elaborated by saying ([1977] 3 All E.R. at 710):*
>
> > *'The description should be sufficiently specific to enable the person to put his hands on the documents or the file without himself having to make a random search, in short, to know specifically what to look for. … The person ought not to be required to chase through masses of documents to see whether this or that may or may not relate to the dispute.'*
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> *The documents referred to in the* Westinghouse *case were of the most diverse, varied and complex variety. Consequently, the language of the members of the House of Lords must be looked at against those facts. On the other hand, the traditional description of bankers' books used by bankers in the ordinary course of business has been 'ledgers, day books and account books.' When therefore these terms are used in a statute or in business correspondence they must be taken to relate to the actual books used by the particular bank in the keeping of its accounts. An outsider would be at a disadvantage if he were to be compelled to know the precise system of accounting used by the bank and the precise and particular documents in which the bank's accounting records are kept. What such a third person must show is that he requires information regarding a particular transaction made on a particular day, in respect of a particular account. Where the banker is merely required to place his hands upon and to pick up the letter which forwarded the cheque, or the lodgment slip which evidenced the transaction or the cable confirming the transaction, could that be said to be in the nature of a fishing expedition? I think not. These documents are manifestly the conduits through which money may be transferred to the credit of an account and the request for their production is at least analogous to the request for the letter in reply to correspondence, the existence of which is either admitted or is not denied.*
>
> *I am not persuaded that any of the members of the House of Lords who made speeches in the* Westinghouse *case, had they been discussing a case concerning bankers" books, would have established a rule that a call for the books in which a banker in the ordinary course of business accounted for a specific transaction, would not be a call for particular documents. Accordingly, in my view, a banker to whom an order was made to produce 'all correspondence, ledgers, day books and account books used in its ordinary course of business' in which it recorded the receipt of a particular sum, on a particular day, which funds it credited to a particular account, would be able to place his hands directly on such records, and therefore to that extent such a description would sufficiently satisfy the statutory requirement of 'particular documents, etc.' in s.2(4)(b)."*

17. This is relevant and helpful in answering the question whether the scope of the order being sought by the Plaintiff is overly broad, as Mr McGee submits.

18. I now turn to the terms of the draft order proposed by the Plaintiff, which is in materially identical terms to the summons and which I have set out earlier in this judgment, starting with paragraph 1 and the sub-categories of documents that are sought.

19. There was some debate in argument as to the meaning of *"duly marked for inspection"* in the letter of request. Mr Smith indicates on instructions that it was intended by the judge in California, where this language originated, to mean Bates numbering or referencing so that the documents are identifiable for the purposes of the California proceedings. It seems to me that, if that is what is intended, then it imposes a potentially unnecessary burden on the First Defendant, which is more

appropriately to be borne by the Plaintiff. Mr Smith accepts the important feature is that the documents are sufficiently identified and distinguished from each other to be differentiated for the purpose of the order I make today. I therefore delete that requirement and leave it to the Plaintiff to ensure that the documents provided by the First Defendant by way of discovery are sufficiently identified for the purpose of the court in California.

20. As regards paragraph 1(a) of the draft order, Mr McGee contends that *"or other records"* be removed. Mr Smith sensibly concedes that, as a Cayman incorporated company, the First Defendant is required to maintain a Register of Members and so the inclusion of *"or other records"* is not necessary. I delete it from the draft order.

21. In respect of paragraph 1(b), where Mr McGee makes the same point about the inclusion of *"or other records"*, Mr Smith does not make the same concession. His position is that it is unclear in what form the Second Defendant will keep any records of the Second Defendant's beneficial ownership of shares through a nominee. I agree. In my view 1(a) and 1(b) are seeking to obtain different information. It may be the case that the Second Defendant is the beneficial owner of shares in the First Defendant but is not the registered owner of those shares. I consider it is appropriate in principle for the First Defendant to be required to produce documents relating to the Second Defendant's beneficial ownership of shares through others.

22. Secondly, I accept Mr Smith's argument that the concept of a Register of Beneficial Ownership is not provided for in the Companies Act and does not necessarily have the same industry-wide recognition as a Register of Members, so it is entirely possible that any records of the Defendant's beneficial ownership of shares in the First Defendant may be held in some form other than a formal Register of Beneficial Ownership. Nevertheless, the nature of the documents to be disclosed is sufficiently clearly specified. I therefore do not agree with Mr McGee's intended application of a blue pencil in paragraph 1(b). I will include paragraph 1(b) in the order as per the language of the draft order.

23. As regards paragraphs 1(c) and (d), Mr McGee objects on the ground that they are again expressed too widely. Mr Smith says that if they are deleted, then that would emasculate the entire purpose of the letter of request and would encroach on comity and, as Doyle J expressed it in *SEC v Terraform*, *"the duty and pleasure of the Cayman court to do all it can to assist the foreign court."*

24. In my judgment, there is merit in Mr Smith's position that removal of paragraphs 1(c) and (d) from the order would result in significant encroachment on the value of the discovery to be provided for the benefit of the court in California. In my view, whilst there are some issues with the breadth of those two sub-paragraphs, those issues are not so significant to require the entire deletion of 1(c) and (d).

25. The options are described by the Second Defendant in the California proceedings as having nil value. This seems somewhat unlikely in light of the material in the evidence suggesting that the First Defendant has an option buyback scheme in place under which the Second Defendant would be paid some US $11.50 per share option. So, paragraph 1(c) is directly focused on ascertaining to what extent the Second Defendant still has stock options in the First Defendant. The Plaintiff does not know whether the stock options have been converted into shares, remain as stock options, have been replaced by other stock options or have been converted into some other interest in the First Defendant or its subsidiaries.

26. The difficulty with paragraph 1(c) is the words at the end of the paragraph, namely *"subsidiary, portfolio company, or affiliate."* A subsidiary is relatively easy to understand and to identify, so there is no need to trim the scope of sub-paragraph 1(c) to exclude subsidiaries of the First Defendant. However, I do have concerns about *"portfolio companies"* and *"affiliates"*. Both terms crop up fairly frequently in disputes before the Financial Services Division but there is nothing before me to indicate that they have a fixed meaning or have become a term of art. Generally, in my experience, these terms are specifically defined in the contractual documents that I have seen in other cases.

27. It is an important feature of any order that I make that the meaning and effect of the order must be clear to the recipient so that they know what it is that they must do to achieve compliance with the order. There should be no ambiguity with what is required. I consider that *"portfolio companies"* and *"affiliates"* may be ambiguous and are arguably too wide. In my judgment it is appropriate to delete those words from the terms of the order, as Mr McGee argues.

28. Paragraph 1(d) is aimed at a different type of document:

> *"employment-related agreements between Inspire Inc. or Xingin International Holding Limited, on the one hand, and Xiaohu "Tiger" Qie, on the other, relating to Mr Qie's stock or option holdings in Inspire Inc. or Xingin International Holding Limited, including but not limited to*

> *agreements dated on or around 24 October 2015 and 29 December 2017 relating to options to purchase shares, as well as employment offers and agreements. All documents should be duly marked for identification."*

29. Mr McGee again complains that this wording is too wide. I am satisfied that *"employment related agreements"* adequately qualifies and limits the nature of the documents which the First Defendant is to locate and produce when read along with the requirement that the documents must relate to the Second Defendant's stock options.

30. In my view, the documents are adequately described in the kinds of ways discussed by Rowe JA in the *Carver* case that I have quoted earlier. I am satisfied they do not cross the boundary of being the kind of broad requests for discovery that would be deprecated in the authorities I have been referred to. It seems to me the documents are necessary, and it is appropriate to assist the judge in California in the hotly contested divorce proceedings so the judge can, in due course, reach a fair and just decision between the Plaintiff and Second Defendant in their divorce. However, as with the opening words of paragraph 1 of the draft order, I will delete the requirement at the end of paragraph 1(d) that the documents are marked for identification.

31. Paragraph 2 of the draft order requires a director or other authorised person at Maples Corporate Services Ltd to swear an affidavit certifying that the documents produced have been kept in the ordinary course of business, and that the affidavit should be substantially in the same form as the template annexed to the letter of request.

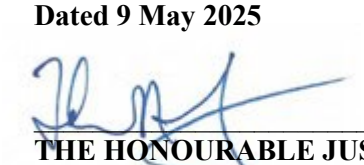
32. I am content to make an order along those lines. During the course of argument, I expressed some questions regarding some of the provisions of the draft form of affidavit intended to be sworn. Mr Smith indicated there has already been some discussion with the attorneys for the First Defendant and suitable revisions compatible with the requirements of the Cayman Islands should be capable of agreement between the Plaintiff and First Defendant. I therefore include liberty to apply in the order so that there is a route for the Plaintiff and the First Defendant to come back for any matters concerning the form of affidavit to be resolved by the court if needed. In addition, Mr Smith points out that the reference in paragraph 2 to the date of the letter of request being 10 July 2024 is wrong, and it should read 7 October 2024. I will make that correction.

33. Paragraph 3 of the draft order provides for the Plaintiff to pay the First Defendant's costs of complying with the order, such costs to be taxed on the standard basis if not agreed. This is a standard provision in an application of this kind. It is entirely appropriate that the First Defendant, as a neutral third party who has been put to the expense of having to comply with an order of the court at the instigation of the Plaintiff, should be reimbursed for the costs it has or will incur in complying with the order in due course.

34. I also record before I finish that the First Defendant has had sight of the terms of the summons and draft order prepared by the Plaintiff's representatives for some time. I understand that there have been discussions between the Plaintiff and First Defendant regarding compliance with the terms of the intended order, which have again been going on for some time, with no indication from the First Defendant that it has any difficulty or comments on the form of order that the Plaintiff was planning to seek. This tends to suggest to me that the First Defendant fully understands what it would need to do in order to comply with the terms of the draft order, and therefore that it should not have any difficulty with complying with the slightly modified form of order that I will make.

35. As to costs, Mr Smith submits that costs should follow the event. He says that the Second Defendant has been largely unsuccessful in challenging the order sought, and any success has certainly not been anything close to the scope of the challenges advanced, both on the merits and on the wording of the order. Mr McGee was not really in a position to oppose this. I therefore order that the Second Defendant should pay the costs of the originating summons to be taxed on the standard basis if not agreed.

Dated 9 May 2025



THE HONOURABLE JUSTICE JALIL ASIF KC
JUDGE OF THE GRAND COURT