

## NOTICE OF FILING

### Details of Filing

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*Sia Lagos*

Registrar

### Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

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No. NSD 1288 of 2025

Federal Court of Australia  
District Registry: New South Wales  
Division: General

**CPC Patent Technologies Pty Ltd (ACN 615 736 028)**

Appellant/Cross-Respondent

**Apple Pty Limited (ACN 002 510 054)** and another

Respondents/Cross-Appellants

## **CPC'S SUPPLEMENTARY SUBMISSIONS - SECURITY FOR COSTS**

### **Introduction**

- 1 These submissions are filed pursuant to the Court's direction on 24 December 2025, concerning Apple's application for security for costs of this appeal dated 4 December 2025.
- 2 Apple relies on submissions in support dated 15 December 2025 (**AS**) and submissions in reply dated 23 December 2025 (**ASR**), and an affidavit of Robynne Sanders dated 4 December 2025 (**Sanders**). CPC relies on submissions in answer dated 19 December 2025 (**CS**) and an affidavit of Michael Williams dated 19 December 2025 (**Williams**).
- 3 Following the filing of the parties' submissions, on 24 December 2025, the trial Judge delivered confidential reasons for judgment regarding costs in the proceeding below: *CPC Patent Technologies Pty Ltd v Apple Pty Limited (No 2)* [2025] FCA 1671 (**Costs Judgment**). These submissions address matters arising from the Costs Judgment.

### **Matters arising from the Costs Judgment**

- 4 In the Costs Judgment, the trial Judge relevantly found that: **(a)** CPC should pay Apple's costs of its infringement claim, including costs of all of the case management steps and the costs of the claim construction issues, on a party-party basis; **(b)** Apple should pay CPC's costs of the cross-claim subject to a discount of 15%, on a party-party basis; **(c)** costs are to be assessed on a lump sum basis; and **(d)** Charter Pacific Corporation Ltd, International Litigation Partners No. 10 Pte Ltd, International Litigation Partners No. 12 Ltd, and Lyndcote Holdings Pty Limited should be jointly and severally liable for any costs order made against CPC.
- 5 A consequence of the Costs Judgment is that the sum of the costs payable by CPC (or its

funders) to Apple in respect of the first proceeding will be far less than the \$8.69 million Apple incurred, according to AS [6]. As outlined in Williams at [15]:

- (a) Apple's costs of the infringement claim are estimated to be around \$5.41 million. If, as Apple contends, 80% of those costs are recoverable, this will result in CPC owing around \$4.32 million, or less if there are any further reductions and discounts; and
- (b) CPC's costs of the cross-claim (excluding case management steps and the costs of claim construction) are estimated to be roughly around \$4.59 million. If, as Apple contends, 80% of those costs are recoverable, this will result in Apple owing CPC around \$3.12m, or less if there are any further reductions and discounts.

6 Whilst acknowledging that this estimate is a guide only, and noting that the estimate of Apple's infringement claim may not account for all case management steps and the costs of the claim construction issues, it nevertheless means that CPC's costs liability (and its funders') will be considerably less than what Apple seeks.

7 In fact, it means that there will likely be a significant surplus of the security paid by CPC in the first proceeding remaining. CPC has already paid \$1.5m in security in the first proceeding, and setting off the amounts estimated above suggests that CPC (and its funders) will have no costs liability and rather, the amount of security paid by CPC to date is likely to exceed its costs liability to Apple by somewhere in the order of \$300,000.

8 This has two consequences. *First*, it means that Apple's interests are already adequately protected by reason of the existing security for costs already paid by CPC. CPC is willing to consent to an order that the security already paid stand as security for Apple's costs in both the first proceeding and this appeal proceeding. *Secondly*, it undermines one of Apple's main arguments in support of its security for costs application, because it demonstrates that the security paid by CPC in the proceeding below was adequate: cf AS [8].

9 Accordingly, the Costs Judgment further supports CPC's position that security in the amount of \$1m is unreasonable. It constitutes a request for complete indemnity of Apple's estimated costs of the appeal (which for the reasons outlined in CS are unduly high), and is significantly greater than what is required to ensure adequate and fair protection for Apple.