

NOTICE OF FILING

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File Title: CPC PATENT TECHNOLOGIES PTY LTD (ACN 615 736 028) v APPLE
PTY LIMITED & ANOR
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



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.

The date of the filing of the document is determined pursuant to the Court's Rules.



Notice of contention

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

APPLE PTY LIMITED (ACN 002 510 054) and another named in the schedule

Respondents

To the Appellant (**CPC**).

The Respondent (**Apple**) contends that orders 2 and 7 of the orders made by the Honourable Justice Burley (**Primary Judge**) on 18 June 2025, consequent upon reasons published as *CPC Patent Technologies Pty Ltd v Apple Pty Ltd* [2025] FCA 489 (**Reasons**), should be affirmed on grounds other than those relied on by the Primary Judge.

This notice of contention adopts the same definitions as used by the Primary Judge in the Reasons.

Grounds relied on

Ground 1: construction of “transmitter subsystem” and “receiver subsystem”

1. If the Primary Judge did not do so (see: Reasons at [164] and [388]), the Primary Judge ought to have held that the phrases “transmitter subsystem” and “receiver subsystem”, as used in the asserted claims, require the use of physically separate and distinct items of hardware.

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Ground 2: no “transmitter subsystem” or “receiver subsystem”

2. In addition to the matters set out in the Reasons at [388]-[428], the Primary Judge ought to have held that the Apple Devices do not have a “transmitter subsystem” or “receiver subsystem”, as required by the asserted claims, because:
- (a) the Apple Devices each constitute a single physical device, which grants access to itself, without using a “transmitter subsystem” or “receiver subsystem” with physically separate and distinct items of hardware;
 - (b) each of the “transmitter subsystem” and “receiver subsystem” alleged by CPC in the Apple Devices (see: Reasons at [383]-[384]) is responsible for both transmission and reception functions – there is repeated interaction between the alleged subsystems in the operation of the Apple Devices;
 - (c) in the Apple Devices, there is no “transmitter subsystem” responsible for biometric enrolment and matching, and no “receiver subsystem” responsible for providing access, rather, different hardware and software components of the Apple Devices are involved in providing access to different items, such as the home screen, 1st and 3rd party applications, protected operations and Apple Wallet;
 - (d) in relation to exemplar category 4 (Apple Devices in combination with Apple Watch), the hardware and software components located on the Apple Watch are physically remote from the other components of the alleged “receiver subsystem”.

Ground 3: no “accessibility attribute”

3. In addition to the matters set out in the Reasons at [436]-[444], the Primary Judge ought to have held that the Apple Devices do not have an “accessibility attribute”, as required by the asserted claims, because:
- (a) the *first* “accessibility attribute” now alleged by CPC (as identified in Reasons at [431], as steps 20, A20 and W20) involves a communication between components alleged by CPC to comprise the “transmitter subsystem”, which:
 - (i) is not output or provided by the alleged “transmitter subsystem”;
 - (ii) is not received by any components of the alleged “receiver subsystem”;
 - (b) the *second* “accessibility attribute” now alleged by CPC (as identified in Reasons at [432], as continuing from step 20 up to and including 28, step A20 up to and including A26, and step W20 up to and including W24/W25):

- (i) involves hardware and software components which CPC has sought to exclude from the alleged “transmitter subsystem” and which CPC has sought to include in the alleged “receiver subsystem”;
 - (ii) conflates the alleged “accessibility attribute” with the alleged “secure access signal”;
- (c) the *third* “accessibility attribute” now alleged by CPC (as identified in Reasons at [433], last sentence, as limited to steps 28, A26 and W24/W25):
- (i) is output by a component which the Primary Judge correctly held cannot logically be excluded from the alleged “receiver subsystem” (Reasons at [416]); and
 - (ii) conflates the alleged “accessibility attribute” with the alleged “secure access signal”;
- (d) each of the “accessibility attributes” now alleged by CPC involve pre-conditions on access to particular items, which are not imposed in response to biometric authentication and which exist independently in the data security architecture in the Apple Devices;
- (e) in relation to exemplar category 4 (Apple Devices in combination with Apple Watch), once “auto unlock” is enabled, unlocking an Apple Device will always cause an Apple Watch to unlock, without any conditions imposed in response to biometric authentication.

Ground 4: no “series feature”

4. In addition to the matters set out in the Reasons at [449]-[453], and if the Primary Judge did not do so (see: Reasons at [453]), the Primary Judge ought to have held that the Apple Devices do not have a means for enrolling relevant signatures into a database, as required by the “series feature”, because:
- (a) the Apple Devices do not have a means for receiving a “series of entries” of a biometric signal which is “characterised” according to “at least one of the number of such entries and a duration of each said entry”;
 - (b) the Apple Devices do not map a series of entries of a biometric signal “into an instruction”;

- (c) the Apple Devices do not contain a means of “enrolling relevant signatures” into a database “according to the instruction”.

Ground 5: lack of priority date

5. The Primary Judge held and ordered that the priority date for the 168 Patent and the 293 Patent is deferred to 13 August 2004 (Reasons at [506]-[510]; [520], [521]; order 2 of the orders of the Court dated 18 June 2025). That holding and order should be affirmed on the additional ground that the real and reasonably clear disclosure of the provisional specification is that the transmitter subsystem of the invention communicates via wireless, not wired, transmission, contrary to Reasons at [497]-[505].

Date: 18 August 2025



Signed by Robynne Sanders
Solicitor for the Respondent

Schedule

No. NSD 998 of 2021

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

Respondents

Second Respondent: Apple Inc.

Date: 18 August 2025