



Form 31
Rule 15.02(1)

Further Amended Notice of cross-claim

Amended on 31 January 2025 with leave of the Court by orders dated 31 January 2025

No. VID 659 of 2024

Federal Court of Australia
District Registry: Victoria
Division: General

Progressive Green Pty Ltd (ACN 130 175 343)

Applicant

Flo Energy Australia Pty Ltd (ACN 664 209 330) and another named in the schedule
Respondents

Flo Energy Australia Pty Ltd (ACN 664 209 330) and another named in the schedule
Cross-claimants

Progressive Green Pty Ltd (ACN 130 175 343)

Cross-respondent

To Progressive Green Pty Ltd, the Cross-respondent

The Cross-claimants, Flo Energy Australia Pty Ltd and Flo Holding Pte. Ltd., the First and Second Respondents in the proceeding, apply for the relief set out in this further amended cross-claim.

The Court will hear this further amended cross-claim, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence.

If you have not already done so, you must file a notice of address for service (Form 10) in the Registry before attending Court or taking any other steps in the proceeding.

Time and date for hearing:

Place: Owen Dixon Commonwealth Law Courts Building, 305 William Street, MELBOURNE VIC 3000

The Court ordered that the time for serving this application be abridged to

Filed on behalf of (name & role of party)	The Respondents/ Cross-claimants		
Prepared by (name of person/lawyer)	Siabon Seet		
Law firm (if applicable)	Gilbert + Tobin		
Tel	(02) 9263 4000	Fax	(02) 9263 4111
Email	sseet@gtlaw.com.au		
Address for service (include state and postcode)	Level 35, Tower Two, International Towers Sydney, 200 Barangaroo Avenue, Barangaroo, NSW 2000		



Date:

Signed by an officer acting with the authority
of the District Registrar

Details of further amended cross-claim

On the grounds stated in the further amended statement of cross-claim, the Cross-claimants claim:

1. A declaration that the Cross-respondent has infringed Australian Registered Trade Mark Number 1553374 (**FlowSmart Mark**) by using each of:

- (a) FLOW;
- (b) FLOW POWER;
- (c) flowpower.com.au;



- (d)
- (collectively, the **Flow Power Marks**),

as a trade mark in relation to:

- (e) services in respect of which the FlowSmart Mark is registered, pursuant to s 120(1) of the *Trade Marks Act 1995* (Cth) (**TMA**);
 - (f) goods that are closely related to the services in respect of which the FlowSmart Mark is registered, pursuant to s 120(2) of the TMA.
2. An injunction pursuant to section 126(1) of the TMA that the Cross-respondent, whether by themselves, their employees, servants, agents or otherwise, be permanently restrained from using as a trade mark in Australia, or procuring or acting in concert with others to use as a trade mark in Australia, the Flow Power Marks or any other mark which is substantially identical or deceptively similar to the FlowSmart Mark, on or in relation to:



- (a) Distribution of energy; Electricity distribution; Fuel distribution services; Electricity storage; Electricity supply services; Supply of electricity; Transmission of electricity; Storage; Storage of gas; Delivery of fuel (the **Services**); and/or
 - (b) any goods that are closely related to the Services,
including by way of advertising promoting, providing, offering for sale or selling to consumers, business or industry in Australia, electricity or electricity retail services.
3. An order that the Register of Trade Marks be rectified by cancelling the registration of each of Australian Registered Trade Mark Numbers 1828633 ~~and~~, 1895059 and 1842461 pursuant to ss 88(1)(a) and 88(2)(a) of the TMA.
 4. Damages pursuant to s 126 of the TMA.
 5. In the alternative, an account of profits for trade mark infringement.
 6. Interest pursuant to s 51A of the *Federal Court of Australia Act 1976* (Cth).
 7. Costs.
 8. Such further or other orders as the Court considers fit.

Cross-claimants' addresses

The Cross-claimants' address for service is:

Place: Gilbert + Tobin, Level 35, Tower Two, International Towers, 200 Barangaroo Avenue,
Barangaroo NSW 2000

Email: sseet@gtlaw.com.au

The First Cross-claimant's address is Suite 2, Level 25, 100 Miller Street, North
Sydney NSW 2060.

The Second Cross-claimant's address is 270 Middle Road, #02-01 Elias Building, Singapore,
188993.

**Service on the Cross-respondent**

It is intended to serve this further amended cross-claim on the Cross-respondent.

Date: ~~13 December 2024~~ 31 January 2025

A handwritten signature in blue ink, appearing to read "Siabon Seet", is written over a horizontal dotted line.

Signed by Siabon Seet
Lawyer for the Respondents/ Cross-claimants



Schedule

No. VID 659 of 2024

Federal Court of Australia
District Registry: Victoria
Division: General

Respondents

Second Respondent: Flo Holding Pte. Ltd. (UEN 202006024R)

Cross-claimants

Second Cross-claimant: Flo Holding Pte. Ltd. (UEN 202006024R)

Date: ~~13 December 2024~~ 31 January 2025