



Federal Court of Australia

District Registry: New South Wales

Division: General

No: NSD516/2016

DOMINO'S PIZZA ENTERPRISES LTD

Applicant

PRECISION TRACKING PTY LTD and another/others named in the schedule

Respondent

ORDER

JUDGE: JUSTICE ROBERTSON

DATE OF ORDER: 22 September 2017

WHERE MADE: Sydney

THE COURT ORDERS THAT:

Discovery

1. Any revived application by Precision Tracking for further orders for particular discovery against Navman, pursuant to the deferred application referred to in Order 11 of the orders made on 16 August 2017, be heard at 2pm on 13 October 2017.
2. Any application by Precision Tracking for particular discovery arising out of the affidavits or expert reports served on 20 September 2017 be heard at 2pm on 13 October 2017.
3. Any application and affidavits in support of either of the applications in relation to Orders 1 and 2 be filed by 28 September 2017.

Technical experts

Domino's GPS Tracker System Inspection

4. The inspection by Mr Sizer of Domino's GPS Driver Tracker System the subject of order 12 made on 16 August 2017, to take place at the Domino's Pymont store at 212/214 Harris Street, Pymont, Sydney on 10 October 2017 commencing at approximately 10 am in the presence of Mr Wilson and no more than 4 external solicitors and barristers on behalf of each party, together with Renee Rametta, Group GPS Technical Manager, on behalf of Domino's, to provide technical guidance.

Supplementary evidence in chief arising from further discovery and inspection and source code produced

5. On or before 13 October 2017, Precision Tracking notify Domino's and Navman of the nature of any supplementary expert affidavit evidence in chief arising from:



- (a) discovery and inspection and source code produced on behalf of Domino's after 16 August 2017;
- (b) discovery by Navman given after 16 August 2017.

Joint experts' meeting and report

6. Starting no later than 2 November 2017 and concluding no later than 11 November 2017, the technical experts confer either in person, by video conference or by teleconference, in the absence of the parties and their legal representatives, with the assistance of a Registrar of the Court (if necessary) and secretarial support independent of the parties, and provide to all parties a joint report which, in respect of the matters dealt with in their individual reports (including reports in answer and supplementary reports):
 - (a) identifies points of agreement;
 - (b) identifies points of disagreement; and
 - (c) provides brief reasons for the difference in opinion identified in (b).
7. From the period from when the technical experts commence conferring until they have provided their joint report pursuant to Order 6 each shall keep confidential all communications between them and no expert shall communicate with the legal representatives or agents of the party for whom the expert has been retained, except for:
 - (a) communications for administrative matters; or
 - (b) joint communications from both experts to all parties in relation to any question of substance.

Accounting experts

Supplementary evidence in chief arising from further discovery

8. On or before 13 October 2017, Precision Tracking notify Domino's and Navman of the nature of any supplementary expert affidavit evidence in chief arising from any discovery given after 16 August 2017 and provision of information after 16 August 2017.
9. On or before 13 October 2017, Domino's notify Precision Tracking and Navman of the nature of any supplementary expert affidavit evidence in chief arising from any discovery given after 16 August 2017 and provision of information after 16 August 2017.

Joint meeting and report

10. Starting no later than 23 October 2017 and concluding no later 6 November 2017, the accounting experts confer either in person, by video conference or by teleconference, in the absence of the parties and their legal representatives, with the assistance of a Registrar of the Court (if necessary) and secretarial support independent of the parties, and provide to all parties a joint report which, in respect of the matters dealt with in their individual reports (including reports in answer and supplementary reports):



- (a) identifies points of agreement;
 - (b) identifies points of disagreement; and
 - (c) provides brief reasons for the difference in opinion identified in (b).
11. From the period from when the accounting experts commence conferring until they have provided their joint report pursuant to Order 10 each shall keep confidential all communications between them and no expert shall communicate with the legal representatives or agents of the party for whom the expert has been retained, except for:
- (a) communications for administrative matters; or
 - (b) joint communications from both experts to all parties in relation to any questions of substance.

Pleadings

12. On or before 6 October 2017, Domino's serve a proposed further amended statement of claim and Navman serve a proposed amended statement of cross-claim.
13. On or before 13 October 2017, Precision Tracking notify the parties of any objection to the proposed amendments referred to in order 12 above.

Pre-trial case management conference

14. List the matter for a pre-trial case management conference on 16 November 2017 at 9:30AM.
15. The listing for directions on 5 October 2017 is vacated.

Court books

16. Domino's to provide a draft court book index to the other parties on Wednesday 8 November 2017, with comments to be provided by Precision on Thursday 9 November and the parties to agree on the index by Friday 10 November 2017. Court books to be provided in electronic format along with two printed copies for the Court and one printed copy for each of Navman and Precision by Tuesday 14 November 2017.

Notice of witnesses required for Cross-examination

17. The parties to provide notice of witnesses required for cross-examination by Friday, 17 November 2017.

Objections to Evidence

18. The parties to provide objections to evidence by Friday, 17 November 2017, and counsel to confer with a view to resolving objections by Wednesday, 22 November 2017.
19. Any outstanding objections be sent to the associate to Justice Robertson by 5PM on Thursday, 23 November 2017.




Submissions

20. The parties to exchange outlines of opening submissions in chief at 4pm on Friday, 17 November 2017. Submissions for Domino's and Precision Tracking not to exceed 20 pages. Submissions for Navman not to exceed 10 pages.
21. The parties to exchange outlines of submissions in answer at 4 pm on Wednesday, 22 November 2017. Submissions for Domino's and Precision Tracking not to exceed 10 pages. Submissions for Navman not to exceed 20 pages.

Trial order

22. The parties exchange proposed trial timetables on or before Wednesday, 22 November 2017 and seek to reach agreement on a trial timetable before Wednesday, 22 November 2017.
23. An agreed draft or a draft listing the points of disagreement be provided to the associate to Justice Robertson by 5PM on Thursday, 23 November 2017.

Date that entry is stamped: 27 September 2017


Registrar



Schedule

No: NSD516/2016

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Division: General

Second Respondent VLADIMIR LASKY
Third Respondent NATHAN PARROTT
Fourth Respondent ALEXANDER GREEN

CROSS CLAIM

Cross-Claimant PRECISION TRACKING PTY LTD
Cross Respondent DOMINO'S PIZZA ENTERPRISES LTD
Second Cross
Respondent NAVMAN WIRELESS AUSTRALIA PTY LTD ACN 123 981
457

CROSS CLAIM

Cross-Claimant NAVMAN WIRELESS AUSTRALIA PTY LTD ACN 123 981
457
Cross Respondent PRECISION TRACKING PTY LTD