



Federal Court of Australia

District Registry: New South Wales

Division: General

No: NSD516/2016

DOMINO'S PIZZA ENTERPRISES LTD

Applicant

PRECISION TRACKING PTY LTD

Respondent

Registrar: REGISTRAR NG

Date of Order: 28 March 2018

Where made: Sydney

THE COURT ORDERS THAT:

1. The subpoenas addressed to the following entities dated 6 February 2018 are set aside with no order as to costs:
 - (a) Laing O'Rourke Australia Pty Ltd;
 - (b) Laing O'Rourke (BMC) Pty Ltd; and
 - (c) Laing O'Rourke Services Pty Ltd.
2. Subject to orders 1(a) and 3 of the orders of 7 March 2018, and order 4 of the orders of 14 March 2018, the undertakings provided by the parties in:
 - (a) order 2 of the orders made on 28 February 2018;
 - (b) order 4 of the orders made on 7 March 2018;
 - (c) order 5 of the orders made on 14 March 2018,be extended for a further 7 days.
3. Any objection to access to documents produced in accordance with the Annexure A Subpoenas, the Annexure A2 Subpoenas, or the Annexure A3 Subpoenas on the grounds of confidentiality, privilege, or any other ground be subject to order 12 below.



4. Leave be granted to the parties to inspect and copy in the Registry, the documents produced in accordance with the Subpoenas to Produce addressed to the persons described in Annexure **A5 (Annexure A5 Subpoenas)**.
5. Subject to order 6, the parties undertake to limit access to the documents referred to in order 4 to their external solicitors and counsel for 7 days.
6. Leave be granted to the Second, Third, and Fourth Respondents to inspect the documents produced in accordance with the Annexure A5 Subpoenas, subject to their first signing confidentiality undertakings acceptable to Domino's Pizza Enterprises Limited and Navman Wireless Australia Pty Limited.
7. Where a party has leave to inspect and copy documents produced in accordance with the Annexure A5 Subpoenas, leave be also granted to the solicitors for that party to uplift that document, for the purposes of inspection and copying, on the following conditions:
 - (a) If original documents rather than copies have been produced, the solicitor provides the Registry a letter of consent from the person to whom the subpoena is addressed.
 - (b) Documents not leave the custody of the solicitor, or counsel instructed by the solicitor.
 - (c) Documents be returned to the Registry in the same condition, order, and packaging as when uplifted.
 - (d) Documents be returned promptly and in any event, when an officer of the Registry so requests.
8. On completion of this matter, the Registrar may return to the addressee of each of the Annexure A5 Subpoenas the documents produced without giving the issuing party any further notice.
9. The Subpoenas to Produce addressed to the persons described in Annexure **B5** be adjourned to **9.30am** on **4 April 2018**.
10. Notwithstanding any other order made today, any documents produced in accordance with the Annexure A5 Subpoenas that are contained in an envelope marked "privileged" may not be inspected, copied or uplifted, until further order.
11. Orders 6 and 9 of the orders of 21 March 2018 are vacated.



12. In respect of any objection to access on the grounds of confidentiality, privilege, or any other ground in relation to the Annexure A Subpoenas, the Annexure A2 Subpoenas, the Annexure A3 Subpoenas, or the Annexure A5 Subpoenas:
 - (a) the person objecting to access file and serve an affidavit(s) in support setting forth the grounds and facts relied upon by **4pm** on **4 April 2018**;
 - (b) any submissions or affidavits in support of access to be filed and served by **4pm** on **11 April 2018**; and
 - (c) any dispute over access be listed before Justice Robertson on a date to be fixed.

13. If an objection is filed and served in accordance with order 12, the parties extend their undertakings in orders 2 and 5 until the determination of the dispute over access.


In these orders,

Annexure A Subpoenas means the Subpoenas to Produce addressed to the persons described in Annexure A of the orders of 28 February 2018.

Annexure A2 Subpoenas means the Subpoenas to Produce addressed to the persons described in Annexure A2 of the orders of 7 March 2018.

Annexure A3 Subpoenas means the Subpoenas to Produce addressed to the persons described in Annexure A3 of the orders of 14 March 2018.

Date that entry is stamped: 28 March 2018


Registrar

Subsection 35A (5) of the *Federal Court of Australia Act 1976* (the *Act*) provides that a party to proceedings in which a Registrar has exercised any of the powers of the Court under subsection 35A (1) of the Act may, within the time prescribed by the Rules of Court, or within any further time allowed in accordance with the Rules of Court, apply to the Court to review that exercise of power.

Rule 2.02(3) of the *Federal Court (Bankruptcy) Rules 2016* provides that, subject to any direction by the Court to the contrary, an application under subsection 35A(5) of the Act for review of the exercise of a power of the Court by a Registrar under subsection 35A(1) of the Act must be made by filing an interim application in accordance with Form B3 within 21 days after the day on which the power was exercised.



Schedule

No NSD516 of 2016

Federal Court of Australia

District Registry: New South Wales

Division: General

Respondents

Second respondent: Vladimir Lasky
Third respondent: Nathan Parrott
Fourth respondent: Alexander Green
Fifth respondent: Delivery Command Pty Ltd

Cross-Claim

Cross-Claimant: Precision Tracking
Cross-Respondent: Domino's Pizza Tracking Enterprises Ltd
Second Cross-Respondent: Navman Wireless Australia Pty Ltd

Cross-Claim

Cross-Claimant: Navman Wireless Australia Pty Ltd
Cross-Respondent: Precision Tracking Pty Ltd

Date: 28 March 2018



Annexure A5

1. Laing O'Rourke Australia Construction Pty Ltd (S 42)



Annexure B5

1. Kentucky Fried Chicken Pty Ltd
2. Yum! Restaurants Australia Pty Ltd