

NOTICE OF FILING

Details of Filing

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File Number: NSD917/2020
File Title: COMPUMOD INVESTMENTS PTY LIMITED AS TRUSTEE FOR THE
COMPUMOD PTY LIMITED STAFF SUPERANNUATION FUND v
UNIVERSAL EQUIVALENT TECHNOLOGY LIMITED (FORMERLY
A.C.N. 603 323 182 LIMITED AND FORMERLY AXSESSTODAY
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.



Second Further Amended Statement of Second Respondent's Cross-Claim

No. NSD917 of 2020

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

Compumod Investments Pty Limited as trustee for the Compumod Pty Limited Staff Superannuation Fund

Applicant

Universal Equivalent Technology Limited (formerly A.C.N. 603 323 182 Limited and formerly Axesstoday Limited) and another others named in the schedule

Respondents

PricewaterhouseCoopers Securities Limited

Cross-Claimant

Universal Equivalent Technology Limited (formerly A.C.N. 603 323 182 Limited and formerly Axesstoday Limited) and others named in the schedule

Cross-Respondents

This is the Second Further Amended Statement of Cross-Claim of PricewaterhouseCoopers Securities Limited (**PwCS**), the Cross-Claimant and Second Respondent in respect of the Third ~~Second~~ Further Amended Statement of Claim filed 17 April 2023 22 December 2023 (Claim).

Save as otherwise indicated, capitalised terms used in this Second Further Amended Statement of Cross-Claim have the same meaning as defined in the Claim.

A. Parties

1. The Cross-Claimant, PwCS:

- a. is, and was at all material times, a company incorporated pursuant to the Corporations Act;

Filed on behalf of (name & role of party)	PricewaterhouseCoopers Securities Limited, Second Respondent and Cross-Claimant		
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- b. conducted business in Australia by which it provided services including certain accounting, advisory and financial services; and
 - c. operated under the name PricewaterhouseCoopers Securities Limited (at times abbreviated to "PwCS").
2. At all material times prior to 29 October 2023, the First The Cross-Respondent, Universal Equivalent Technology Limited (formerly A.C.N. 603 323 182 Limited and formerly Axsesstoday Limited) (AXL) was:
- a. ~~is, and was at all material times,~~ a company incorporated pursuant to the Corporations Act and is capable of being sued; and
 - b. ~~was, at all material times,~~ in the business of lending to small to medium sized enterprises, primarily in the hospitality and transport sectors.
- 2A. AXL was deregistered on 29 October 2023.
- 2B. The Second to Fifth Cross-Respondents (collectively **Underwriters**):
- a. are each a company incorporated pursuant to the laws of the United Kingdom and are capable of being sued;
 - b. underwrote a DUAL Evolution Insurance Policy with the policy number EVO53983417J1, with AXL as policy holder and with an insurance period commencing on 25 November 2017, which was amended by endorsements effective 25 December 2018 (the **Policy**).
- AA. Underwriters' liability**
- 2C. By reason of the Policy, Underwriters agreed to indemnify or otherwise pay AXL in respect of the contingencies or events specified in the sections of the Policy.
- 2D. The Policy responds to the Cross-Claim.

Particulars

AXL has indicated that Underwriters have accepted the Policy responds to the Further Amended Cross-Claim filed by PwCS on 2 June 2023 subject to the terms and conditions of the Policy including the Entities Limits and known facts and circumstances, at paragraph 23 of the Defence to Further Amended Statement of Cross-Claim filed by AXL on 18 July 2023.

2E. By operation of s 601AG of the Corporations Act, PwCS may recover from Underwriters an amount that was payable to AXL under the Policy to the extent of any insurance proceeds.

2F. Further or in the alternative, by operation of s 4 of the *Civil Liability (Third Party Claims Against Insurers) Act 2017 (NSW) (TPC Act)*, Underwriters stand in the place of AXL as if the proceedings were proceedings to recover damages, compensation or costs from AXL to the extent of any insurance proceeds.

B. Contribution

3. In the Claim, the Applicant, Compumod Investments Pty Limited as trustee for the Compumod Pty Limited Staff Superannuation Fund, has made allegations against PwCS.

4. In the event that:

- a. the Applicant is able to establish the liability of PwCS in respect of the loss and damage alleged in the Claim for any contravention by PwCS of s 1041H of the Corporations Act and/or knowing involvement in any contravention by AXL of s 1041H of the Corporations Act and/or s 12DA of the ASIC Act (which is denied by PwCS); and
- b. AXL is not a "concurrent wrongdoer" within the meaning of s 1041L of the Corporations Act or s 12GP of the ASIC Act as alleged at paragraph 95 of PwCS' Defence to the Claim filed ~~2 June 2023~~ 22 December 2023,

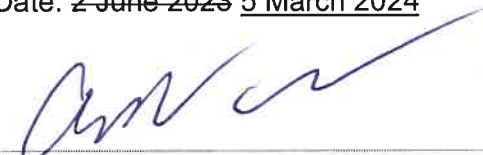
then, solely for the purpose of this Cross-Claim, PwCS pleads against AXL and Underwriters standing in the place of AXL the matters in paragraphs 5 to 7 9 below.

4A. In the event that the Applicant is able to establish the liability of PwCS in respect of the loss and damage alleged in the Claim for knowing involvement in any contravention by AXL of s 728 of the Corporations Act (which is denied by PwCS) then, solely for the purpose of this Cross-Claim, PwCS pleads against AXL and Underwriters standing in the place of AXL the matters in paragraphs 5 to 7 9 below.

5. As against AXL and Underwriters standing in the place of AXL, and solely for the purpose of this Cross-Claim, PwCS repeats paragraphs 1 to 11, ~~and~~ 12A and 12B, Parts C, D, E, F, F1, G, paragraphs 49A to 49D, Parts H, I, ~~and~~ J and J1, and paragraphs 85 to 88B, 89 and 90 of the Claim.

6. By reason of the matters pleaded at paragraph 5 above, AXL is and Underwriters standing in the place of AXL are each a person from whom the Applicant and Group Members are entitled to recover their loss and damage as alleged in the Claim.
7. By reason of the matters pleaded at paragraph 6 above, PwCS is, accordingly, entitled in equity to indemnity or contribution from AXL in respect of any liability PwCS may be found to have to the Applicant and Group Members for their loss or damage.
8. By reason of the matters pleaded at paragraphs 2A to 2E and 7 above, PwCS is entitled to recover from Underwriters the amount payable to AXL under the Policy up to the amount of the indemnity or contribution for which AXL is liable to PwCS to the extent of any insurance proceeds.
9. Further or in the alternative, by reason of the matters pleaded at paragraphs 2B to 2D, 2F and 7 above:
 - (a) any liability of AXL to pay indemnity or contribution to PwCS is an insured liability; and
 - (b) Underwriters standing in the place of AXL are liable up to the amount of the indemnity or contribution for which AXL is liable to PwCS to the extent of any insurance proceeds.

Date: ~~2-June-2023~~ 5 March 2024



Signed by Andrew Carter
Lawyer for the Cross-Claimant

This pleading was prepared by Andrew Carter and Gabrielle Piesiewicz.

Certificate of lawyer

I, Andrew Carter, certify to the Court that, in relation to the Amended Statement of Second Respondent's Cross-Claim filed on behalf of the Second-Respondent and Cross-Claimant, the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

Date: ~~2 June 2023~~ 5 March 2024



Signed by Andrew Carter
Lawyer for the Second Respondent /
Cross-Claimant

Schedule

No. 917 of 2020

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

Respondents

Second Respondent: **PricewaterhouseCoopers Securities Limited**

Third Respondent: **Hardy (Underwriting Agencies) Limited, Managing Agent for and on behalf of Lloyd's Syndicate HDU 382**

Fourth Respondent: **Liberty Managing Agency Limited for and on behalf of Syndicate 4473**

Fifth Respondent: **Asta Managing Agency Ltd acting for and on behalf of Everest Syndicate 2786**

Sixth Respondent: **Arch Underwriting at Lloyd's Limited for and on behalf of Syndicate 2012**

Cross-Respondents

Second Cross-Respondent: **Hardy (Underwriting Agencies) Limited, Managing Agent for and on behalf of Lloyd's Syndicate HDU 382**

Third Cross-Respondent: **Liberty Managing Agency Limited for and on behalf of Syndicate 4473**

Fourth Cross-Respondent: **Asta Managing Agency Ltd acting for and on behalf of Everest Syndicate 2786**

Fifth Cross-Respondent: **Arch Underwriting at Lloyd's Limited for and on behalf of Syndicate 2012**