



HIGH COURT OF AUSTRALIA

NOTICE OF FILING

This document was filed electronically in the High Court of Australia on 04 Nov 2022 and has been accepted for filing under the *High Court Rules 2004*. Details of filing and important additional information are provided below.

Details of Filing

File Number: S137/2022
File Title: Facebook Inc v. Australian Information Commissioner & Anor
Registry: Sydney
Document filed: Form 27B - Appellant's chronology
Filing party: Appellant
Date filed: 04 Nov 2022

Important Information

This Notice has been inserted as the cover page of the document which has been accepted for filing electronically. 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 and whenever the document is reproduced for use by the Court.

IN THE HIGH COURT OF AUSTRALIA
SYDNEY REGISTRY

BETWEEN:

FACEBOOK INC

Appellant

and

AUSTRALIAN INFORMATION COMMISSIONER

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First Respondent

FACEBOOK IRELAND LIMITED

Second Respondent

APPELLANT'S CHRONOLOGY

Part I: Certification

20 The Appellant certifies that this chronology is in a form suitable for publication on the internet

Part II: Chronology of principal events

DATE	EVENT	REFERENCE
2 November 2013	Dr Aleksandr Kogan created the "This Is Your Digital Life" app (the TIYDL) using Graph API V1.	
12 March 2014 - May 2015	Period in which it is alleged that Facebook, Inc. and Facebook Ireland disclosed the personal information (including sensitive information) to TIYDL.	CAB 10 [2] and 39 [5]
5 April 2018	The Office of the Australian Information	

	Commissioner informs Facebook entities that it is conducting an investigation into alleged contraventions of the <i>Privacy Act 1988 (Cth)</i> by Facebook concerning Cambridge Analytica and TIYDL.	
9 March 2020	The Commissioner, relevantly, filed an originating application together with a statement of claim	CAB 10 [1] and 39[1]
9 April 2020	By an <i>ex parte</i> interlocutory application, the Commissioner sought orders under rule 10.42 and rule 10.43(2) granting her leave to serve various Documents on Facebook, Inc. and Facebook Ireland in accordance with art 5 of the Hague Convention and by substituted service.	CAB 10 [4]
22 April 2020	<p>His Honour Justice Thawley delivered judgment in <i>Australian Information Commission v Facebook Inc</i> [2020] FCA 531 and made orders (the Service Orders), <i>inter alia</i>, pursuant to rules 10.42 and 10.43(2), that the Commissioner be granted leave to serve the Documents—including the originating application—on Facebook, Inc. in the United States of America in accordance with the Hague Convention.</p> <p>His Honour Justice Thawley also ordered, pursuant to rule 10.24, that the Commissioner was permitted to serve the Documents on Facebook, Inc. by email to its solicitors, King & Wood Mallesons (KWM).</p>	CAB 5 and 31
22 April 2020	In accordance with the Service Orders, the	

	Documents were served on Facebook, Inc. by email to KWM.	
6 May 2020	<p>Facebook, Inc. filed and served an interlocutory application, and supporting affidavit, seeking that:</p> <ul style="list-style-type: none"> a) Order 2 of the Service Orders be discharged pursuant to rule 13.01(1)(d); b) the service of the Originating Application on Facebook Inc be set aside pursuant to rule 13.01(b); and c) Order 4 of the Service Orders, authorising substituted service on Facebook Inc, be discharged. 	CAB 41 [15]
6 May 2020	Facebook Ireland Limited filed a Notice of Address for Service. Without further admission, that entity did not contest service or otherwise seek relief under rule 13.01. By agreement of the parties, case management of the Proceedings, including as against that entity, has been deferred.	
26 June 2020	His Honour Justice Thawley heard oral argument in relation to Facebook, Inc.'s interlocutory application.	CAB 36
14 September 2020	His Honour Justice Thawley delivered the judgment under appeal: <i>Australian Information Commissioner v Facebook Inc (No 2)</i> [2020] FCA 1307 and made orders, <i>inter alia</i> , dismissing Facebook, Inc.'s interlocutory application in relation to the Service Orders.	CAB 35 and 99
28 September	Facebook, Inc. filed an application for leave to	CAB 101

2020	appeal from the orders made by his Honour Justice Thawley on 14 September 2020.	
26 October 2020	The Commissioner filed an affidavit by her lawyer, Ms Katrina Close of the Australian Government Solicitor, annexing a draft Notice of Contention.	
7 February 2022	The Full Court of the Federal Court of Australia comprising Allsop CJ, Perram and Yates JJ (Full Court) granted Facebook Inc. leave to appeal, but dismissed the appeal.	CAB 110 and 168
15 February 2022	Facebook, Inc. filed and served a Notice of Appeal and the Commissioner filed and served a Notice of Contention in accordance with the orders of the Full Court.	CAB 101 and 107
7 March 2022	Facebook, Inc. filed and served an application for special leave in the High Court of Australia (HCA) to appeal from the Full Court's orders.	
16 September 2022	The HCA comprising Keane, Edelman and Steward JJ granted Facebook, Inc. special leave to appeal.	CAB 181
29 September 2022	Facebook, Inc. filed and served a Notice of Appeal in the HCA.	CAB 183
29 September 2022	Facebook Ireland filed and served a submitting appearance.	CAB 189
6 October 2022	The Commissioner filed and served a Notice of Contention.	CAB 186

DEFINITIONS

In addition to any definitions given in-line, certain words in this chronology have the following meaning:

“**CAB**” means the Core Appeal Book that was filed by the Appellant on 20 October 2022 for proceeding S137 of 2022 in the High Court of Australia.

“**Documents**” means:

- a) the documents filed by the Commissioner on 9 March 2020 in the Proceedings which the Commissioner sought leave to serve, being the originating application, the concise statement, the statement of claim, the interlocutory application, the various affidavits relied upon, the written submissions and
- b) the orders of the Federal Court of Australia on the hearing of the Commissioner’s interlocutory application described in (a); and
- c) the reasons for judgment published as *Australian Information Commission v Facebook Inc* [2020] FCA 531.

“**Hague Convention**” means article 5 of the *Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters*, done at the Hague on 15 November 1965.

“**Privacy Act**” means the *Privacy Act 1988* (Cth) as in force on 5 November 2018, being the version of the Act alleged by the Commissioner to be applicable to the Proceedings.

“**Proceedings**” means Federal Court Proceedings No NSD 246 of 2020 commenced by the Commissioner on 9 March 2020 by way of an originating application dated 9 March 2020.

“**Rules**”, or any reference to a “**rule**”, means the *Federal Court Rules 2011* (Cth).

Dated 4 November 2022



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