

## NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 7/08/2020 2:46:21 PM AEST and has been accepted for filing under the Court's Rules. Details of filing follow and important additional information about these are set out below.

### Details of Filing

Document Lodged: Reply - Form 34 - Rule 16.33  
File Number: NSD529/2016  
File Title: Kwangho Kim v Hodgson Faraday Pty Ltd Limited ACN 130 606 987 & Ors  
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



Dated: 7/08/2020 2:46:27 PM AEST

A handwritten signature in blue ink that reads 'Sia Lagos'.

Registrar

### Important Information

As required by the Court's Rules, 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 and time of lodgment also shown above are the date and time that the document was received by the Court. Under the Court's Rules the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4.30 pm local time at that Registry) or otherwise the next working day for that Registry.



## Reply

No. NSD 529 of 2016

Federal Court of Australia

District Registry: New South Wales

Division: General

### **KWANGHO KIM**

Applicant

**HODGSON FARADAY PTY LIMITED ACN 130 606 987** and others named in the schedule

Respondents

In reply to the Third Respondent's Defence dated 19 June 2020, the Applicant pleads the following matters and otherwise joins issue with the pleading:

1. In response to paragraph 27(c):
  - a. the Minister provided her consent to the allegations of contravention occurring wholly outside Australia as alleged in paragraphs 10, 12, 26-29, 32, 41, 43-57, 63 and 66-67 of the Applicant's Statement of Claim in connection with South Korea; and
  - b. the Applicant has sought by letter of 7 August 2020 the Minister's further consent to the further allegations of contravention occurring wholly outside Australia alleged in paragraphs 12 and 13 of the Third Further Amended Statement of Claim in connection with the Philippines.
2. In response to paragraph 43, the Applicant says that:
  - a. section 12GP of the ASIC Act arises only if Mr Wang was involved in the TM Index Contravention and/or TMK Index Contravention in the meaning of s 12GF

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Filed on behalf of (name & role of party)	<b>Kwangho Kim, Applicant</b>
Prepared by (name of person/lawyer)	Philip Yang
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of the ASIC Act as alleged at paragraph 31 of the Third Further Amended Statement of Claim;

- b. in the premises, Mr Wang:
  - i. provided the material included in the January 2015 Brochure and/or June 2015 Brochure;
  - ii. knew the purpose for which that material to be used, namely, to make some or all of the Representations;
  - iii. knew that the Representations were contrary to the True Position;
- c. accordingly, Mr Wang:
  - i. is not entitled to any reduction of damages pursuant to s 12GF(1B) of the ASIC Act because he is not a person falling within the exclusion of s 12GF(1B)(c); and
  - ii. is not entitled to any apportionment of the claim against him of pursuant to s 12GR of the ASIC Act because he is a person falling within the exclusion of s 12GQ(1).

Date: 7 August 2020



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Signed by Philip Yang  
Lawyer for the Applicant

This pleading was prepared by Alexander H Edwards and settled by Michael Izzo, SC, Counsel for the Applicant.

**Certificate of lawyer**

I, Philip Yang, certify to the Court that, in relation to the reply filed on behalf of the Applicant, the factual and legal material available to me at present provides a proper basis for:

- (a) each allegation in the pleading; and
- (b) each denial in the pleading; and
- (c) each non admission in the pleading.

Date: 7 August 2020



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Signed by Philip Yang  
Lawyer for the Applicant

**Schedule**

No. NSD 529 of 2016

Federal Court of Australia

District Registry: New South Wales

Division: General

**Applicants**

Applicant: KWANGHO KIM

**Respondents**

First Respondent: HODGSON FARADAY PTY LIMITED ACN 130 606 987

Second Respondent: TMK INDEX LIMITED ACN 123 936 336

Third Respondent: YINGJIE WANG