

Originating Application

No. _____ of 2018

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

Australian Securities and Investments Commission

Applicant

Thorn Australia Pty Ltd (ACN 008 454 439)

Respondent

To the Respondent

The Applicant applies for the relief set out in this application.

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence.

You must file a notice of address for service (Form 10) in the Registry before attending Court or taking any other steps in the proceeding.

Time and date for hearing:

Place: Level 17, Law Courts Building, Queens Square, Sydney NSW 2000

Date:

Signed by an officer acting with the authority
of the District Registrar

Filed on behalf of (name & role of party)	Australian Securities and Investments Commission, Applicant		
Prepared by (name of person/lawyer)	Kim Turner, Litigation Counsel		
Law firm (if applicable)	N/A		
Tel	(02) 9911 2230	Fax	(02) 9911 2279
Email	kim.turner@asic.gov.au		
Address for service (include state and postcode)	Level 5, 100 Market Street Sydney NSW 2000		

Details of claim

On the grounds stated in the statement of claim, accompanying affidavit or other document prescribed by the Rules, the Applicant claims:

Declarations

1. Pursuant to ss 166(2) and (3) of the *National Consumer Credit Protection Act 2009* (Cth) (**the National Credit Act**) declarations that:
 - a. in the period between 1 January 2012 and 1 May 2015 (the **Relevant Period**), the Respondent contravened s 153(1)(b) of the National Credit Act in respect of 278,683 consumer leases (the **Relevant Consumer Leases**) in that it failed to make reasonable inquiries about each consumer's financial situation, specifically it failed to make an inquiry as to each consumer's actual housing costs, before making an assessment as to the unsuitability of each lease;
 - b. in the Relevant Period, the Respondent contravened s 153(1)(c) of the National Credit Act in respect of each of the Relevant Consumer Leases in that it failed to take reasonable steps to verify each consumer's financial situation, specifically it failed to verify each consumer's actual expenses, before making an assessment as to the unsuitability of each lease;
 - c. in the Relevant Period, the Respondent contravened s 151(d) of the National Credit Act in respect of each of the Relevant Consumer Leases in that it entered into each lease in circumstances where it had not:
 - i. made reasonable enquiries about each consumer's financial situation, specifically, each consumer's actual housing costs; and
 - ii. taken reasonable steps to verify each consumer's financial situation, specifically, each consumer's actual expenses; and
 - d. in the Relevant Period, the Respondent contravened s 151(c) of the National Credit Act in respect of each of the Relevant Consumer Leases in that it entered into each lease in circumstances where by reason of its failure to make an inquiry as to each consumer's actual housing costs and its failure to verify each consumer's actual expenses it had not made an assessment that properly assessed whether the lease would be unsuitable for the consumer if the lease was entered into as required by s 152 of the National Credit Act.

Penalties

2. An order pursuant to s 167(2) of the National Credit Act that the Respondent pay to the Commonwealth a pecuniary penalty in respect of the declared contraventions claimed in paragraph 1.
3. Costs in the amount of \$200,000.
4. Such further or other order as the Court sees fit.

Applicant's address

The Applicant's address for service is:

Place: Australian Securities and Investments Commission
Level 5
100 Market Street
Sydney NSW 2000

Email: kim.turner@asic.gov.au

The Applicant's address is Level 5, 100 Market Street, Sydney NSW 2000

Service on the Respondent

It is intended to serve this application on all Respondents.

Date: 22 January 2018



Signed by Kim Turner
Solicitor for the Applicant