

REAL CASE FORCE ACCESS

Successful PPSA Claim made by Happy Parts and Machines Pty Ltd* in the insolvency of the Force Corp Group

Happy Parts and Machines engaged Lynne Walton shortly after the introduction of the Personal Property Securities Act (“PPSA”) to assist with registering on the Personal Property Securities Register (“PPSR”) so as to maintain its Retention of Title (“ROT”) rights to very expensive cranes, elevated work platforms and associated parts sold to customers on credit terms.

Happy Parts had supplied about \$800k worth of parts to Force Access when the Force Corp Group went bust.

Force Corp’s Insolvency Practitioner initially rejected Happy Part’s claim as “they couldn’t identify which parts were in which machines”. Happy Parts was understandably dismayed at the rejection.

Happy Parts engaged Lynne Walton to advise whether the rejection of the claim was justified. Lynne’s response was “Absolutely not”.

Lynne put forward two valid arguments and one strategy to win.

Argument one – Force Access operated a rental fleet of EWPs. The parts debt was less than 4 months old. The shortest part life was a filter which was guaranteed to last for 6 month. Most parts lasted up to 5 years. Therefore all parts not paid for were still in the rental fleet.

Argument two – PPSA states that a PMSI supplier retains title and interest to accessions (the parts) until the asset is sold ‘in the ordinary course of the customers business’. The

Insolvency Practitioner had sold the rental fleet to a competitor business. The sale wasn’t in the ordinary course of business and therefore title to the parts remained with Happy Parts and didn’t pass to the purchaser of the fleet.

The Insolvency Practitioner suggested that Lynne “try going to court” to prove the claim but Lynne suggested that Happy Parts would instead be advising the buyer of the rental fleet that they hadn’t bought the Happy Parts items when they purchased the machines.

Not surprisingly, the Insolvency Practitioner immediately offered to settle the matter. Happy Parts was delighted with the outcome and the payment they received. The claim was settled within two weeks.

This case shows that it is important that secured parties don’t accept the rejection of a claim without proper consultation with a PPSA specialists like Lynne or a lawyer competent in PPS law.

This is yet another example of the benefits of registering on PPSR. If Happy Parts hadn’t registered or engaged Lynne it would have lost \$800k worth of parts.

It is important that ROT suppliers not only register correctly on PPSR but that they understand their rights. Access PPSR helps its clients enforce their rights creatively and with vigour. We can help you to come out on top too.

[Click here to get started.](#)

We look forward to welcoming you as a valued client.

*Name changed to protect client privacy.

