



THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

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From: The Registrar, Supreme Court of Appeal

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PUMA AG RUDOLF DASSLER SPORT V GLOBAL WARMING (PTY) LTD

The Supreme Court of Appeal (SCA) today dismissed an appeal by Puma against the decision of the Cape Town High Court to dismiss its claim for trade mark infringement in terms of the Trade Marks Act against Global Warming.

The High Court held that the average consumer would have had regard to the fact that the words DT NEW YORK on Global's shoe was part of the trade mark and also that the stripe on their shoe differed significantly from that of Puma and subsequently held that Global's mark was not confusingly or deceptively similar.

The Supreme Court of Appeal held that the question of the likelihood or confusion or deception in a claim of trade mark infringement is a matter of first impression. Trade mark infringement cases require an objective comparison between the registration and the actual use by the defendant. The court also held regard has to be had to the whole of the mark with trade mark significance to determine whether it nearly resembles any of plaintiff's marks and is likely to deceive or cause confusion. As the two marks differed significantly the appeal was dismissed.

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