

Supreme Court of Appeal of South Africa

MEDIA SUMMARY– JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal

Date: 15 September 2016

Status: Immediate

Please note that the media summary is intended for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal.

Yuppiechef Holdings (Pty) Ltd v Yuppie Gadgets Holdings (Pty) Ltd
(formerly Yuppie Stuff Online CC)

Yuppiechef is not only the name under which the appellant conducts its business, but also a registered trade mark in three classes of goods, all of which relate to household goods and equipment. The appellant contended that the use of the unregistered mark ‘Yuppie Gadgets’ by the respondent infringed its trade marks, or alternatively, by representing that the business of Yuppie Gadgets had a connection in the course of trade with Yuppiechef constituted passing off. An application to interdict its use failed in the Western Cape Division of the High Court and the SCA today dismissed an appeal against that decision.

The SCA held that the two marks ‘Yuppiechef’ and ‘Yuppie Gadgets’ are not so similar that the use of ‘Yuppie Gadgets’ is calculated to deceive or cause confusion among shoppers who purchase from online retail stores. It also held in relation to the claim based upon s 34(1)(a) of the Trade Marks Act 194 of 1993 that ‘the ‘Yuppie Gadgets’ mark was being used to identify the respondent’s business and not on or in physical or other relation to the goods in respect of which Yuppiechef’s mark was

registered. In relation to s 34(1)(c) of the Act it held that there was no evidence of blurring or tarnishment of the Yuppiechef mark. The appeal was dismissed with costs.