THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA SUMMARY

From: The Registrar, Supreme Court of Appeal

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Bliss Brands (Pty) Ltd v Colgate-Palmolive (Pty) Ltd and Others (Case no: 1498/2024); *Colgate-Palmolive Company and Another v Bliss Brands (Pty) Ltd* (Case no: 79/2025) [2026] ZASCA 106 (12 August 2026)

Today, the Supreme Court of Appeal (SCA) dismissed two appeals by Bliss Brands (Pty) Ltd (Bliss Brands) against orders of the Gauteng Division of the High Court, Johannesburg (the high court), concerning its compliance with an order requiring it to withdraw offending Securex soap packaging. The SCA also upheld the cross-appeal by Colgate-Palmolive (Pty) Ltd and Colgate-Palmolive Company (Colgate) concerning the scope of the enforcement order.

The matter arose from a dispute between Colgate, the market leader in the germ-protection soap category with its Protex brand, and Bliss Brands, which entered the same market with its Securex brand. Colgate had complained to the Advertising Regulatory Board (ARB) that Bliss Brands' Securex packaging imitated the packaging architecture of Protex and improperly exploited the goodwill associated with the Protex brand. The ARB's Advertising Appeals Committee and Final Appeal Committee ultimately ordered Bliss Brands to withdraw the offending packaging. Bliss Brands subsequently participated in further litigation concerning its compliance with those orders. The Constitutional Court later confirmed that Bliss Brands had submitted to the jurisdiction of the ARB.

In February 2024, Manoim J ordered Bliss Brands to comply with the Final Appeal Committee's decision within three months. The order applied to the dissemination of new packaging and did not require the removal of products already on shelves. Bliss Brands thereafter introduced a modified version of its Securex packaging. Colgate contended that the changes were insufficient and launched contempt proceedings. Vally J found that Bliss Brands had failed to comply with the order and that its non-compliance was wilful and mala fide. A further version of the packaging introduced in October 2024 was also challenged by Colgate, and Manoim J found that it constituted a continuing breach of the February 2024 order.

The SCA held that the appeals turned principally on whether Bliss Brands had complied with the February 2024 order. It found that the changes made to the May 2024 Securex packaging were not significant. The modified packaging remained very similar to the original offending packaging. The Court further noted that Bliss Brands had continued to advertise the old offending packaging on certain websites and had not placed sufficient evidence before Vally J demonstrating the steps it had taken to ensure compliance with the court order. Once a breach of the order had been established, Bliss Brands bore the evidentiary burden of showing that its non-compliance was not wilful or mala fide. It had failed to discharge that burden.

The SCA rejected Bliss Brands' reliance on a previous decision concerning a genuine attempt to modify offending material. In that case, evidence had been placed before the court demonstrating the efforts made to comply with the order. Bliss Brands had not produced comparable evidence. It had not shown what steps it had taken to comply with the order, nor that appropriate instructions had been given to those responsible for redesigning the packaging. The SCA therefore agreed that Bliss Brands' non-compliance was wilful and mala fide and constituted civil contempt.

The SCA further held that the correct comparison was between the original offending packaging and the subsequent versions introduced by Bliss Brands. The Court found that the original packaging had already been determined to be offending by the relevant ARB bodies and that Bliss Brands' review proceedings had not resulted in those findings being overturned. The subsequent packaging therefore had to be assessed against the original offending packaging to determine whether it had departed sufficiently from it. The Court concluded that the May and October 2024 versions did not materially differ from the original offending packaging.

As to Colgate’s cross-appeal, the issue was whether the enforcement order should have been limited to media over which the ARB had jurisdiction by virtue of the relevant media outlets being ARB members. The SCA held that there was no basis for that limitation. Bliss Brands had voluntarily submitted to the ARB’s jurisdiction and had participated in the ARB proceedings. The Constitutional Court had previously held that, where a non-member submits to the ARB’s jurisdiction, the ARB may make directions binding on that non-member. The SCA accordingly upheld Colgate’s cross-appeal and removed the restriction from the enforcement order.

The SCA dismissed Bliss Brands’ appeals with costs, including the costs of two counsel, and upheld Colgate’s cross-appeal with costs, including the costs of two counsel. The order of Manoim J, dated 13 December 2024, was set aside and replaced with an order directing Bliss Brands to withdraw the offending and latest offending packaging from every medium in which they appeared.