



THE SUPREME COURT OF APPEAL  
REPUBLIC OF SOUTH AFRICA

**MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL**

From: The Registrar, Supreme Court of Appeal

Date: 7 September 2007

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*

---

**COMMERCIAL AUTO GLASS (PTY) LTD v BMW AG**

The SCA dismissed this appeal and confirmed the infringement of the BMW trade mark by a dealer in unauthorised ('pirate') windscreens that fit BMW vehicles. The case concerned the method by which the appellant advertised and marketed its windscreens.

At best for the appellant, its use of the BMW mark was capable of two constructions: on the one hand it could be interpreted as informing the public that it is supplying unauthorised windscreens that fit BMW cars or, on the other hand, it may mean that it is supplying genuine BMW windscreens.

However, the court found that its use was likely to give the impression to a substantial number of potential customers that the windscreens being offered for sale by the appellant emanate from or are in some way connected with or associated with BMW and are genuine parts.

The court further held that the appellant's use of the BMW marks on spare parts did not amount to bona fide and reasonable use consistent with fair practice. It would have been very easy for the appellant to inform the public of the true state of affairs.

---ends---