



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: 29 September 2009

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

MR VIDEO (PTY) LTD & OTHERS v NU METRO FILMED ENTERTAINMENT (PTY) LTD & OTHERS

The Supreme Court of Appeal today gave judgment in the dispute between the Mr Video franchises as appellants, and Nu Metro, 20th Century Fox, Disney Enterprises, Warner Bros. and Videovision Entertainment (Pty) Ltd as respondents. The Cape High Court had granted Nu Metro and its fellow respondents an interdict against the infringement of their copyright in DVD copies of various films. The High Court had also ordered the Mr Video group to deliver to the Nu Metro group all the infringing DVD copies of the films in their possession or under their control. The High Court had expressed the view that the defence raised by the Mr Video group to the claims for infringement and delivery of infringing articles had not been bona fide and that at least part of their purpose was to delay the enforcement of the Nu Metro group's rights to protect the copyright. It had accordingly ordered the Mr Video group to pay the costs of the Nu Metro group on the attorney and client scale as a mark of its disapproval of their conduct.

The Supreme Court of Appeal dismissed the appeal of the Mr Video group against the High Court's judgment. It noted, in addition to the factors mentioned by the High Court as warranting an attorney and client costs order, that the Mr Video group had furnished its home video rental customers with instructions on how to modify their DVD players to enable them to view films recorded on the infringing DVDs which were specially coded to prevent them being played on ordinary equipment purchased in South Africa. It accordingly confirmed all the orders made in the High Court and ordered the Mr Video group to pay the Nu Metro groups costs of appeal.

--ends--