

THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From:The Registrar, Supreme Court of AppealDate:27 NovemberStatus: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.

SOCIÉTÉ DES PRODUITS NESTLÉ SA NESTLÉ SOUTH AFRICA (PTY) LTD and

FIRST APPELLANT SECOND APPELLANT

INTERNATIONAL FOODSTUFFS CO IFFCO SOUTH AFRICA (PTY) LTD THE REGISTRAR OF TRADE MARKS

FIRST RESPONDENT SECOND RESPONDENT THIRD RESPONDENT

The SCA upheld an appeal by Nestlé on the ground that the shape of the finger wafer chocolate bars marketed and sold by International Foodstuffs, under the registered word mark 'Tiffany Break', were confusingly and/or deceptively similar to Nestlé's 4 finger wafer and 2 finger wafer shape trade marks, being the shape of its Kit Kat finger wafer chocolate bars. International Foodstuffs was interdicted from making use of Nestlé's registered shape marks in the course of trade. Nestlé's appeal to restrain use by International Foodstuffs of its registered word marks 'Quanta Break' and 'Tiffany Break' on the ground that it was confusingly and/or deceptively similar to Nestlé's registered word mark 'Have a Break, Have a Kit Kat' was dismissed.