



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 March 2008
Status: Immediate

D W ZIETSMAN v ELECTRONIC MEDIA NETWORK LIMITED & OTHERS

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.

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The Supreme Court of Appeal today upheld an appeal against a judgment in the Court of the Commissioner of Patents in terms of which that court ordered a plaintiff who is resident in South Africa to provide security for the costs of three of the defendants. The SCA held that, in terms of s 17(2) of the Patents Act 57 of 1978, the court a quo had a discretion to order an *incola* plaintiff to provide security but that the court a quo misdirected itself in assuming that the parties were agreed, that in the event of it being found that an *incola* plaintiff could be ordered to provide security, only the quantum of such security had to be determined. The SCA thereupon considered all relevant factors and concluded that the plaintiff should not have been ordered to furnish security. One of the factors that weighed with the SCA was that the defendants had not disclosed a defence. The SCA stated that it would be quite unreasonable to order a plaintiff, an *incola* natural person, to provide security for the costs of an action instituted by him, at the behest of a defendant who may not even have a defence worthy of consideration.