

Supreme Court of Appeal of South Africa

MEDIA SUMMARY– JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal

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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.

**Truworths Ltd v Primark Holdings**

The SCA today upheld an appeal by Truworths Ltd against a judgment of the Gauteng Division of the High Court, Pretoria, dismissing an application for the expungement of the mark PRIMARK from the Trade Marks Register. The mark had been registered in 1976 but Truworths contended that there had been no bona fide use of the mark for the statutory period prescribed in s 27(1)(b) of the Trade Marks Act 194 of 1993.

Primark Holdings, the proprietor of the mark, contended that it was a well-known mark entitled to protection under the provisions of the Paris Convention and protected under s 35(1) of the Trade Marks Act. The court analysed the requirements for a mark to be recognised as a well-known mark among the relevant sector of the South African public. It then analysed the evidence and held that the mark was not a well-known mark in terms of the requirements of s 35(1) and the Paris Convention.

As there was no evidence of bona fide use of the mark during the statutory period the SCA upheld the appeal and ordered the expungement of the mark and its removal from the register.