

## The High Court in Bulawayo, Zimbabwe

HB 21/09

### State v Ndabezinhle Moyo and Dalokuhle Tshaba

<b>Court</b>	:	High Court
<b>Case</b>	:	Criminal
<b>Date of Judgement</b>	:	February 9, 2009
<b>Plaintiff</b>	:	State
<b>Defendant</b>	:	Ndabezinhle Moyo and Dalokuhle Tshaba
<b>Concept</b>	:	Copyright Unlawful Conduct
<b>Statue</b>	:	Section 59 of the Copyright and Neighbouring Rights Act, Chapter 26:05

#### Panel of Justices

Ndou J

#### Case Background

The state brought charges against the Defendants on accounts of selling copied compact discs and so called DVDs. The accused persons were selling or displaying for sale these items resulting in their arrest and prosecution for “selling or hiring out” [in respect of Moyo] and possession [in respect of Tshaba] infringed copies of DVDs and CDs without the authors consent.

#### Procedural History

The High Court gave a judgement on the case.

#### Issue

- Whether the first plaintiff has a valid claim in respect of this suit.
- Whether the sale of the plaintiffs’ product contravenes UNBS Standards, regulations and policy.
- Whether the product imported by the defendants infringes 7 on the plaintiffs’ trademark in Uganda.

#### Rational

Despite the accused's plea of guilt for infringing copyrighted works and the seizure of evidence in support of the commission of the crime, the review court quashed the conviction and sentence on the basis that the charge had not been framed correctly in accordance with the provisions of the Copyright Act. The accused was duly acquitted and the infringing goods were released.

**Keywords**      Infringement, distribution, reproduction