

The High Court in Harare, Zimbabwe

Unilever Plc & Another v Vimco (Pvt) Ltd

Court	:	High Court
Case	:	Criminal
Date of Judgement	:	February 25, 2004
Plaintiff	:	Unilever Plc & Another
Defendant	:	Vimco (Pvt) Ltd
Concept	:	Trade Mark Owner Competition
Statue	:	Section 8 of the Trade Marks Act [Chapter 26:04].

Panel of Justices

Omerjee J

Case Background

The first applicant a company duly incorporated according to the laws of the United Kingdom and having its principal place of business at Port Sunlight Merseyside England. The second applicant is a subsidiary of the first applicant and is a duly registered Zimbabwean company. The latter manufactures and sells in Zimbabwe, the same range of products as the first applicant. The second applicant applies to its manufactured products, the trade marks of the first applicant, in terms of agreements between the two parties. The first respondent is Vimco (Pvt) Limited a company duly registered according to the laws of Zimbabwe. The applicants seek an order in terms of the draft order as follows:

- Interdicting the first respondent from infringing first applicant's registered trade mark No. 615/58 VIM in class 3 and trade mark No. 1114/07 VIM in class 3 .
- Interdicting the first respondent from "passing off" its goods by the use of the trade mark VIMCO.
- That the first respondent changes its corporate name.
- That the first respondent pays the costs of this application. Since the applicants' case is that "VIMCO" so nearly resembles its trade mark so as to be likely to deceive or cause confusion, it is paragraph (a) of section 8 that would be applicable.

Procedural History

The High Court gave a ruling on the case.

Issue

Whether or not the applicant has established that the mark "VIM", in relation to scouring powder, had become distinctive and associated with the applicant.

Rational

The court held that the trade mark VIM was infringed by VIMCO which made a wholesale appropriation of the same trade mark in relation the infringing trade mark's use on confusingly similar goods

Keywords Subsidiary, trademark infringement, reputation, goodwill.