

SOUTH AFRICA / JUDGMENT

SK-2000 Manufacturing (Pty) Ltd v SGA Trading CC (2002/6713) [2011] ZACCP 1; 2011 BIP 4 (CP) (21 January 2011)

[2011] ZACCP 1

COURT

Court of the Commissioner of Patents

BEFORE

P.Z. Ebersohn

CASE / FILE NUMBER

2002/6713

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NOT

REPORTABLE

IN

THE COURT OF THE COMMISSIONER OF PATENTS

FOR

THE REPUBLIC OF SOUTH AFRICA

Patent

No. 2002/6713

DATE:

21/01/2011

In

the matter of

SK-2000

MANUFACTURING (PTY) LTD.

.....Applicant

.....
(Patentee)

and

SGA

TRADING

CC.....

Respondent

CORAM

EBERSOHN AJ

DATE

JUDGMENT HANDED DOWN: 21ST JANUARY 2011

JUDGMENT**EBERSOHN AJ.**

- [1] The applicant, a South African company, is the holder of South African Patent 2002/6713.
- [2] According to the founding papers the applicant became aware thereof that the respondent has disposed of domestic electrical plug adaptors, by way of sale, in South Africa and the applicant alleged that the said plug adaptors infringed its said Patent.
- [3] The respondent, a South African close corporation, opposed the application and together with its answering papers filed a counterclaim for the revocation of the applicant's said Patent.
- [4] The matter was comprehensively argued on behalf of both parties.
- [5] When considering judgment in the matter the court concluded that it cannot decide the matter on the material before it and that the matter should be referred for the hearing of oral evidence.
- [6] The following order is accordingly made:
 - 1. The matter is referred for the hearing of oral evidence on a date to be arranged with the Registrar to resolve all the issues between the parties as appears from the papers filed including:
 - 1.1 whether all the necessary parties are before the Court;
 - 1.2 whether further parties are to be joined in the matter;
 - 1.3 whether further and/or alternative relief must not be granted.
 - 2. The parties are entitled to subpoena witnesses to testify at the hearing of oral evidence.
 - 3. The parties must hold a full and comprehensive pre-trial conference at least 21 Court days before the hearing of oral evidence commences and the minutes of that meeting must be delivered to the Presiding Judge at least 14 Court days before the hearing commences.
 - 4. The parties must prepare, serve and file summaries of the evidence of all witnesses they wish to call at the hearing of oral evidence who have not yet made affidavits in the matter, which summaries must be served and filed and delivered to the Presiding Judge not later than 14 court days before the hearing of oral evidence and the parties may call no further witnesses unless the Court, on good cause shown, grants leave in that regard. This paragraph will not apply in the case of a witness having been subpoenaed by a party hereto who refuses to give a statement to the party having subpoenaed him.

5. Any party wishing to call a witness to give expert evidence must give notice of such fact and the applicant must serve and file a summary of the witness' opinion and the reasons therefor at least 35 court days and the respondent at least 21 court days before the hearing commences and file copies thereof with the Presiding Judge at least 14 court days before the hearing commences.
6. Any party wishing to have these terms of reference amended or added to may on 7 days' notice to the other party approach the Court in Chambers for such relief.
7. All costs incurred up to the present, in respect of which no order have been made yet, are herewith reserved.

P.Z. EBERSOHN

ACTING JUDGE OF THE COURT

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ORIGINAL SOURCE <https://www.saflii.org/za/cases/ZACCP/2011/1.html>

CASE PAGE <https://chat.esheria.ai/case-law/south-africa/sk-2000-manufacturing-pty-ltd-v-sga-unknown-topic-accp-2011>

Prepared on 12 October 2026 · Esheria