

SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA STATEMENT – JUDGMENT DELIVERED IN SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal

Date: 29 March 2006

Status: Immediate

HAUPT, ANTON CHARL t/a SOFTCOPY v BREWERS MARKETING INTELLIGENCE (PTY) LIMITED & TWO 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 of the Cape High Court in respect of the copyright in a computer program known as Data Explorer.

The Data Explorer program is a program that can interrogate and manipulate what is known as AMPS (All Media Products Survey) data. AMPS data are research results useful especially to advertising agencies in the planning of marketing strategies.

A similar program known as Brewer's AMPS contained search and graphing functions the source code of which corresponded 83% and 26% respectively with the source code in respect of these functions in the Data Explorer program. The corresponding portions had been copied from the source code of the Data Explorer program.

An argument by the respondents that the reproduction of the aforesaid part of the source code of the Data Explorer program was not substantial was rejected. The SCA held that whether a substantial part had been reproduced depended much more on the quality than the quantity of what had been taken. In this case the copying had been done because the programmer of the Brewer's AMPS program found it difficult to write the relevant part of the code himself and these components were considered to be a valuable ingredient of the program.