SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA STATEMENT:

From: **The Registrar, Supreme Court of Appeal**
Date: **9 September 2005**
Status: **Immediate**

Please note that the media statement is for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal

A M MOOLLA GROUP LTD AND OTHERS v THE GAP INC AND OTHERS

The SCA today upheld in part an appeal by the A M Moolla Group in its trade mark dispute with the US company The Gap Inc and two of its subsidiaries

The dispute between the parties concerns the exclusive right to use the trade mark GAP in relation to clothing and clothing stores. A member of the Moolla Group is the registered proprietor of such trade marks in SA. The US company sought to prevent the Moolla Group from using its trade marks on the ground that they were reproductions or imitations of the US company's well-known marks. This claim was dismissed because the Moolla Group's registrations are of a date earlier than the date on which it was alleged the US company's trade marks had become well known in SA.

However, the SA trade mark registrations were expunged because the Moolla Group had failed to prove use of their marks by their proprietor or by a licensee. The attempt by the Moolla Group to interdict the US company from infringing the trade mark registrations accordingly failed.

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