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14 October 2016

BOGUS uucsa's URGENT COURT APPLICATION

Bogus uucsa had brought an urgent High Court application against us (Genuine UUCSA). The hearing took place yesterday, 13th October 2016 in the Pretoria High Court. The following is a brief report by our attorney, Zehir Omar.

To: Cristy Lelean

Cc: mjh@khl.co.za, "The Mujlisul Ulama of South Africa", far han, Abu Bakr Omar

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Dear Sir / Madam

We refer to the events before Acting Judge Diedericks today.

After lengthy argument, the court concluded that only order 3 of the court's order of 17 August 2016 could be suspended in view of this being the only order that could be executed upon.

During argument, your counsel confined his application to reliance on Rule 45A. Your counsel disavowed all reliance on Section 18(1) of the Superior Courts Act and the common law.

The Judge on record agreed with our Mr Omar that there is a clear distinction between operation of the order and execution of the order. In view of the latter the court held that the order interdicting your client from using the name UUCSA remained intact and was not suspended as same could not be suspended in terms of Rule 45A.

During the proceedings, and after the Court made the aforesaid findings, your counsel attempted to abandon his argument in his heads of argument and attempted to do an about turn to rely on the common law and / or Section 18(1). The court did not allow this.

Judge Diedericks confirmed that the interdict against your client remains intact. As a result your client cannot use our client's trademark. Should your client not desist in this conduct, then we will be obliged to carry out our client's instructions to proceed with contempt proceedings against your client, including your client, Yusuf Patel.

Yours faithfully

Zehir Omar Attorneys

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The following is the Court Interdict which the Pretoria High Court had granted to Genuine UUCSA, and which was being contested by BOGUS uucsa in yesterday's proceedings:

	
IN THE HIGH COURT OF SOUTH AFRICA GAUTENG DIVISION, PRETORIA	
CASE NO.: 50187/2016	
PRETORIA 17 AUGUST 2016	
BEFORE THE HONOURABLE MADAM JUSTICE TEFFO	
In the matter between:	
UNITED ULAMA COUNCIL OF SOUTH AFRICA	APPLICANT
AND	
UNITED ULAMA COUNCIL OF SOUTH AFRICA CASHEL AVENUE, ATHLONE, WESTERN CAPE REGISTRAR OF TRADE MARKS	1 ST RESPONDENT 2 ND RESPONDENT
HAVING read the documents filed of record, heard counsel and considered the matter:	
IT IS ORDERED THAT:	
<ol style="list-style-type: none">1. An interdict in terms of Section 35 of the Trade Marks Act 194 of 1993, restraining the first respondent from using the applicant's trade mark be granted.2. The removal of the infringing trade marks from all material and, where the infringing mark is inseparable or incapable of being removed from the material, an order that all such material be delivered up the applicant.3. The first respondent is interdicted from utilizing the trade mark of the applicant and from parading itself to be the United Ulama Council of South Africa.4. The first respondent pays the applicant's costs of suit.	
BY THE COURT	
REGISTRAR	
2016-08-19	
J. MASHINGO	
Attorney: ZEHIR OMAR ATT.	