

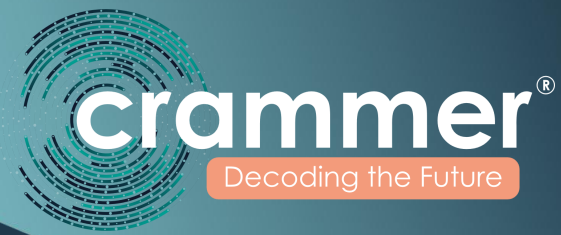


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Decoding the Future

WELCOME!

PLENARY ROOM



Darren Olivier

Case Law Update

Specsavers, TravelWings, Skydemon



SPECSAVERS BOTSWANA v STRATEGIC IDEAL HOLDINGS

High Court of Botswana (Lobatse), 27 March 2025



Alleged adoption 1999
Use commencing 2001



Registration 2001
Use commencing 2014



Administration of Justice

Plat Justitia

CASE DISPOSAL STANDARDS HIGH COURT

PROCESS	STANDARD	CUSTOMER
Civil Causes	24 months	Public
Criminal Trials	18 months	Public
Bail Applications	3 months	Public
Miscellaneous Applications	12 months	Public
Constitutional Applications	6 months	Public
Criminal Appeals	12 months	Public
Civil Appeals	12 months	Public
Matrimonial Causes	12 months	Public

Tollfree Number: 0800 400 625



SPECSAVERS BOTSWANA v STRATEGIC IDEAL HOLDINGS

High Court of Botswana (Lobatse), 27 March 2025

► Key issue:

- Passing off?
- Status of registered trade mark right

► Botswana's Industrial Property Act:

*"74. (1) **The exclusive right to a mark** under this Act shall be acquired by Registration in accordance with the provision under this Part.*

*81. (1) Registration of a mark shall confer on the registered owner, the right- (a) to **exclusive ownership of that mark**; (b) to prohibit third parties from using the mark; and (c) to institute court proceedings against any person infringing his or her rights."*

- Only the second reported passing-off judgment in Botswana
- Enforcement takeaway: local nuances matter. Register.

WINGS TRAVEL MANAGEMENT (PTY) LTD v SATGURU TRAVELS (PTY) LTD

South Gauteng High Court 4 August 2025



- ▶ 1996/06867 WINGS& DEVICE (WINGS disclaimed) cl 39



- ▶ 2005/05095 WINGS 24& DEVICE cl 39



- ▶ 2009/10854 WINGS cl 43
- ▶ 2009/10969 WINGSNALEDI cl 43



Key Findings and takeaways

- ▶ No Infringement of WINGS (word mark)
- ▶ **Composite Marks vs. Common Terms:** WTM's other registered trade marks were composite marks (e.g., WINGSNALEDI, WINGS24 & Device) and that the word "WINGS" could not be treated in isolation. "TRAVEL" in Satguru's mark not ignored.
- ▶ **No Likelihood of Confusion:** the average consumer in the market for travel services is sophisticated, literate, and unlikely to be confused by the TRAVELWINGS mark.
- ▶ Court warned against granting monopolies over generic words like "WINGS".
- ▶ **Passing Off Claim Also Dismissed:** WTM failed to establish that it owned the relevant goodwill or reputation in the mark or that the respondent misrepresented its services as those of the applicant.
- ▶ Register comprehensively and strategically if common terms used.
- ▶ Plead user rights with an expert.



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Client Survey

THANK YOU