

IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA

CASE NO: CCT306/24

In the *ex parte* matter of:

**PRESIDENT OF THE REPUBLIC OF
SOUTH AFRICA**

Applicant

and

**SPEAKER OF THE NATIONAL
ASSEMBLY**

First Interested Party

**CHAIRPERSON OF THE NATIONAL
COUNCIL OF PROVINCES**

Second Interested Party

**ALL INTERESTED POLITICAL
PARTIES REPRESENTED IN THE
NATIONAL ASSEMBLY**

Third Interested Party

BLIND SA

Fourth Interested Party

and

**NATIONAL ASSOCIATION OF
BROADCASTERS**

First amicus curiae

**COPYRIGHT COALITION OF SOUTH
AFRICA**

Second amicus curiae

RECREATE ACTION

Third amicus curiae

JONATHAN SHAPIRO

Fourth amicus curiae

**CENTRE FOR CHILD LAW AND
ANOTHER**

Fifth amicus curiae

**RECORDING INDUSTRY OF SOUTH
AFRICA**

Sixth amicus curiae

**COMPOSERS, AUTHORS AND
PUBLISHERS ASSOCIATION AND
OTHERS**

Seventh amicus curiae

**SOUTH AFRICAN NATIONAL
EDITORS' FORUM AND ANOTHER**

Eighth amicus curiae



In re: Constitutionality of Copyright Amendment Bill and the Performers' Protection Amendment Bill

RECREATE ACTION'S TABLE OF AUTHORITIES

Domestic case law

Affordable Medicines Trust v Minister of Health 2006 (3) SA 247 (CC)

Blind SA v Minister of Trade, Industry and Competition and others [2022] ZACC 33; 2023 (2) BCLR 118 (CC)

Chotabhai v Union Government (Minister of Justice) and Registrar of Asiatics 1911 AD 13

Cool Ideas 1186 CC v Hubbard and Another 2014 (4) SA 474 (CC)

Cross-Border Road Transport Agency v Central African Road Services (Pty) Ltd and Others 2015 (5) SA 370 (CC)

Curtis v Johannesburg Municipality 1906 TS 308 at 311

Democratic Alliance v African National Congress and Another (CCT 76/14) [2015] ZACC 1 (19 January 2015)

Democratic Alliance v Speaker of National Assembly and others [2016] ZACC 8

Department of Land Affairs and Others v Goedgelegen Tropical Fruits (Pty) Ltd 2007 (6) SA 199 (CC)

Du Toit v Minister of Safety and Security and Another 2009 (1) SA 176 (SCA)

Executive Council, Western Cape Legislature and Others v President of the Republic of South Africa and Others 1995 (4) SA 877 (CC) (1995 (10) BCLR 1289; [1995] ZACC 8)

First National Bank of SA Ltd t/a Wesbank v Commissioner, South African Revenue Service and Another; First National Bank of SA Ltd t/a Wesbank v Minister of Finance 2002 (4) SA 768 (CC)

Independent Institute of Education (Pty) Limited v Kwazulu-Natal Law Society & others at 2020 (2) SA 325 (CC)

Investigating Directorate: Serious Economic Offences v Hyundai Motor Distributors (Pty) Ltd; In re Hyundai Motor Distributors (Pty) Ltd v Smit NO 2001 (1) SA 545 (CC) ("Hyundai")

K v Minister of Safety and Security 2005 (6) SA 419 (CC)

Katzenellenbogen Ltd v Mullin 1977 (4) SA 855 (A)

Law Society of South Africa and Others v Minister for Transport and Another 2011 (1) SA 400 (CC)

Masiya v Director of Public Prosecutions, Pretoria and Another (Centre for Applied Legal Studies and Another, Amici Curiae) 2007 (5) SA 30 (CC)

Mkontwana v Nelson Mandela Metropolitan Municipality and Another; Bissett and Others v Buffalo City Municipality and Others; Transfer Rights Action Campaign and Others v MEC, Local Government and Housing, Gauteng and Others (KwaZulu-Natal Law Society and Msunduzi Municipality as Amici Curiae) 2005 (1) SA 530 (CC)

Moneyweb (Pty) Ltd v Media 24 Ltd and Another 2016 (4) SA 591 (GJ)

Motloung and Another v The Sheriff, Pretoria East and Others 2020 (5) SA 123 (SCA)

Mukaddam v Pioneer Foods (Pty) Ltd and Others 2013 (5) SA 89 (CC)

Natal Joint Municipal Pension Fund v Endumeni Municipality 2012 (4) SA 593 (SCA)

National Credit Regulator v Opperman and Others 2013 (2) SA 1 (CC)

National Director of Public Prosecutions v Carolus and Others 2000 (1) SA 1127 (SCA)

Phumelela Gaming and Leisure Limited v Grundlingh and Others 2007 (6) 350 (CC)

Pienaar Brothers (Pty) Ltd v Commissioner, South African Revenue Service and Another 2017 (6) SA 435 (GP)

Pio v Franklin NO and Another 1949 (3) SA 442 (C)

Qwelane v South African Human Rights Commission and another 2021 (6) SA 579 (CC)

Reflect-All 1025 CC and Others v MEC for Public Transport, Roads and Works, Gauteng Provincial Government, and Another 2009 (6) SA 391 (CC)

Richter v Minister of Home Affairs and others 2009 (3) SA 615 (CC) para 62-63; *S v Singo* 2002 (4) SA 858 (CC)

Ronald Bobroff & Partners Inc v De La Guerre 2014 (3) SA 134 (CC)

S v Moqhoba (R282/2016) [2017] ZAFSHC 10 (5 January 2017)

Savoi and others v National Director of Public Prosecutions and another 2014 (5) SA 317 (CC)

Veldman v Director of Public Prosecutions, Witwatersrand Local Division 2007 (3) SA 210 (CC)

Wary Holdings (Pty) Ltd v Stalwo (Pty) Ltd and Another 2009 (1) SA 337 (CC)

Foreign law

Sega Enterprises Ltd. v. Accolade Inc., 977 F.2d 1510 (9th Cir. 1992)

R v Nova Scotia Pharmaceutical Society (1992) 93. D.L.R (4th) 36

International law and instruments

¹WIPO TRT/WCT/002 Agreed Statements concerning the WIPO Copyright Treaty (adopted by the Diplomatic Conference on December 20, 1996)

Academic articles and books

C Geiger, DJ Gervais and M Senftleben, "The Three-Step-Test Revisited: How to Use the Test's Flexibility in National Copyright Law" (November 18, 2013) American University International Law Review, Vol. 29, No. 3 (2014), pp. 581-626, available at SSRN: <https://ssrn.com/abstract=2356619>

Daniel Russo, et al., *Reverse Engineering: a European IPR perspective*, SAC 2016, April 04-08, 2016

J Band and J Gerafi, Fair Use/Fair Dealing Handbook (May 7, 2013) available at SSRN: <https://ssrn.com/abstract=2333863>

Samtani et al 'Third Joint Academic Opinion on the South African Copyright Amendment Bill [B13D-2017]' ("Third Joint Academic Opinion"),