

**REPUBLIC OF SOUTH AFRICA
IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

CASE NO: 2025-171943

1. REPORTABLE: NO
2. OF INTEREST TO OTHER JUDGES: NO
3. REVISED: YES

DATE 7 NOVEMBER 2025

SIGNATURE: J ROUX AJ

In the matter between:

TWINS IMPORT AND EXPORT (PTY) LTD

Applicant

And

IVAN PASHEV MARINOV, AI SKY CC

Respondent

JUDGMENT

Roux AJ

INTRODUCTION

[1] This is an urgent application for interim interdictory relief *pendente lite*, brought by the Applicant to restrain the Respondents from infringing its registered trademark “MAXGROWPLUS” and disseminating injurious falsehoods concerning its agricultural products. The relief sought is of a temporary nature pending the institution of an action for final relief. Having considered the extensive arguments presented by counsel in their heads of Argument (which assisted the court to focus on the crux of the issues at stake and for which I thank counsel), the evidence

contained in the filed affidavits, and eloquently articulated oral submissions, this Court granted an order in favour of the Applicant on 5 November 2025 in terms of the notice of motion, suitably amended, and reserved the costs of the application for determination at the trial.

[2] The Respondents opposed the application, raising a series of preliminary objections—relating to jurisdiction, the signature of the notice of motion, and the deponent’s authority—and further contend that the matter lacks urgency and is founded on speculation and hearsay. On the merits, they deny engaging in impugned conduct and assert that the Applicant has not made out a prima facie case for interim relief.

URGENCY

[3] The Applicant’s case on urgency is that the Respondents’ actions—specifically the use of the MAXGROWPLUS mark in email communications and social media, the decanting and relabelling of its products, and the circulation of statements that its products are “unregistered” and “illegal”—pose an imminent threat to its goodwill in a developing agricultural market. The Applicant’s founding affidavit shows that this conduct came to light through correspondence received on 16 September 2025, and the application was launched promptly thereafter on 19 September 2025.

[4] The Respondents argue that the matter is not urgent, that any urgency was self-created, and that the Applicant could obtain substantial redress in due course. However, the Respondents’ approach conflates self-created urgency with the absence of urgency. The Applicant’s prompt reaction, coupled with evidence of continuing reputational harm, satisfies the test in *East Rock Trading 7 (Pty) Ltd v Eagle Valley Granite (Pty) Ltd* [2011] ZAGPJHC 196. The harm to reputation and market confidence is inherently difficult, if not incapable of adequate quantification, and I am satisfied that the Applicant cannot be afforded substantial redress in due course. This, coupled with the entire conspectus of facts relevant to urgency, considering Rule 6(12) and the relevant (well established) case law, renders the applicant of sufficiently urgency to be dealt with as such.

POINTS IN LIMINE

[5] The Respondents’ preliminary objections—relating to jurisdiction, the signature

of the notice of motion, and the deponent's authority—are without merit. The Applicant's director, Ms Peneva, expressly avers that she is a director and therefore enjoys ostensible and implied authority to institute proceedings on behalf of the company. The law is clear that authority to depose to an affidavit is unnecessary; only the institution of proceedings requires authorisation (*Ganes and Another v Telecom Namibia Ltd* 2004 (3) SA 615 (SCA)). No Rule 7 was filed, which precludes the Respondent's challenge.

[6] The Respondents' reliance on a jurisdiction clause is similarly misplaced. The alleged distribution agreement containing a clause conferring jurisdiction on Bloemfontein or Cape Town (legally untenable as it is) was terminated before the present dispute, and the subject matter of this application arises not from that agreement but from statutory trademark and ancillary rights. There is no bar preventing this Court from entertaining urgent relief of this nature. No other court enjoys exclusive jurisdiction. The Respondent's registered address is in this jurisdiction.

THE MERITS

[7] The requirements for an interim interdict are settled: a *prima facie* right, a reasonable apprehension of irreparable harm, a balance of convenience in the Applicant's favour, and absence of an adequate alternative remedy (*Setlogelo v Setlogelo* 1914 AD 221; *Webster v Mitchell* 1948 (1) SA 1186 (W)).

[8] The Applicant has established at least, if not final, a *prima facie* right in its registered MAXGROWPLUS trademarks on the first requirement. The Respondents' own admissions — that they used the email address m[...], repackaged the Applicant's goods, and printed unauthorised labels reflecting the Applicant's mark — constitute explicit acts of trademark infringement under section 34(1)(a) of the Trade Marks Act 94 of 1993.

[9] The Respondents' heads merely assert that “no case has been made out” and that “there is no proof” of ongoing infringement. These are conclusory statements unsupported by sufficient, cogent evidence from the answering affidavit. In motion proceedings, bald denials do not create a genuine dispute of fact. The Respondents have not disputed the existence of the email address or LinkedIn profile, nor denied

the act of relabelling goods bearing the Applicant's mark, nor communication with product "complainants" by mid September, in fact soliciting those (materially similarly worded) complaints.

[10] Regarding injurious falsehoods, the Applicant annexed correspondence showing that the Respondents actively solicited (peculiarly similarly worded) customer complaints and described the Applicant's products as "not registered" and "not legal for sale." This occurred as late as September 2025, post the common cause termination. Instead of addressing this, the Respondents paradoxically repeat these assertions in their own papers, thereby confirming the defamatory nature of their statements. Their argument that these were merely "customer complaints" is unsustainable — the Respondents' role in circulating and amplifying those claims renders them liable for their own statements.

[11] The Respondents' insistence that the Applicant's "NO FROST" product was unregistered further undermines their credibility. The Applicant demonstrated that this product was never placed on the market and that the Respondents unlawfully applied a mock-up label to repackaged goods. Therefore, the Respondents' misrepresentation forms part of the conduct the Applicant seeks to restrain.

[12] The apprehension of future infringement is well-founded. The Respondents have previously used the marks unlawfully, refused to give undertakings to desist, and displayed a continuing disregard for the Applicant's proprietary rights. Had the undertakings been provided, the application would probably not have been necessary. The requirements of irreparable harm and balance of convenience are accordingly met.

[13] The Respondents' argument that the matter should be dismissed because of "disputes of fact" ignores the correct approach under *Webster v Mitchell*. On the undisputed and inherently probable facts, the Applicant could obtain final relief in due course; the Respondents' denials do not cast serious doubt on its case. The balance of convenience also favours the Applicant, whose brand reputation would suffer immeasurable and continuous prejudice if relief were refused. In contrast, the Respondents stand to suffer no legitimate harm by being restrained from unlawful conduct.

[14] The Respondents' opposition was ill-conceived. They were allowed to avoid litigation by providing a written undertaking but declined to do so. In conclusion, the Respondents' arguments fall short of a cogent factual or legal foundation. Their opposition relies largely on bare denials, procedural quibbles, and assertions inconsistent with their own admissions. The Applicant, by contrast, has established all elements of interim relief and is entitled to the protection of its trademark and reputation pending trial.

ORDER

The following order is made:

1. The application is heard as one of urgency in terms of Rule 6(12).
2. Pending the final determination of an action to be instituted by the Applicant within 15 days:
 - (a) The Respondents are interdicted and restrained from using, in the course of trade, the name or mark MAXGROWPLUS, or any confusingly similar mark;
 - (b) The Respondents are interdicted from making or disseminating any false, misleading, or disparaging statements to customers or the public concerning the Applicant or its products;
 - (c) The Respondents are directed to deliver up to the Applicant all goods, labels, packaging, or promotional materials bearing the MAXGROWPLUS mark or any mark confusingly similar thereto.
3. The costs are reserved for determination by the trial court.

J Roux AJ

Acting Judge of the High Court
Gauteng Division, Pretoria

This Judgment was handed down electronically by circulation to the parties' and or parties' representatives by email and by being uploaded to CaseLines. The date and time for the hand down is deemed to be 10h00 on 07 November 2025.

APPEARANCES

Attorneys for applicant:

Roux Potgieter Attorneys

Counsel for applicant:

Roux Potgieter – attorney with right of
appearance

Attorneys for respondent:

Marina Naydenova Attorneys

Counsel for respondent:

Alexia Vosloo-de Wit

Date of Hearing:

05 November 2025

Judgment delivered:

07 November 2025