South Africa

“English-Afrikaans Dictionaries”

**Decision of the Supreme Court of Appeal
16 September 2016 – Case No. 886/2015**

*Media 24 Books (PTY) Ltd v. Oxford University Press
Southern Africa (PTY) Ltd.*

Copyright Act 98 of 1978, Secs. 6 and 23(1)

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Keywords Dictionaries · Correspondences of words and sentences · Probability of substantial similarities · Unconscious copying · Oral evidence · Necessity of trial

1. When formulating an example sentence, a compiler might unconsciously make use of a word, phrase or idea that they had recently seen in a similar context after consulting another dictionary. But when such happens several hundred times it is not explicable on the basis of unconscious copying.
2. Substantial similarities between example sentences in rival dictionaries aimed at school children are probable, if not inevitable, given their limited range and purpose and the need to adopt an approach to the formulation of example sentences that would fit with the life experience of children.
3. A positive conclusion that a copyright infringement related to dictionary wordings occurred cannot be made on the basis of the mere correspondences of words and sentences or the mere weighing of the probabilities emerged from the affidavits alone. An attempt to discharge the onus of proving copying on the papers without a trial that allows the cross-examination of facts deposed by witnesses will be successful only in exceptional cases.