

Press release

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Orangeworks beats European cellular network giant in battle for trademark

Orangeworks Accounting Software has won the battle to register its name, despite a battle since 2006 against European cellular network company Orange Personal Communications Services Limited, relating to the use of the 'Orange' element of the name.

Orangeworks is a Johannesburg based company that provides accounting and accounting related software which has been developed in South Africa for the South African SME market.

The opposition by Orange was based on the argument that Orangeworks trademarks are confusingly similar to its Orange trade mark registrations and that the use of the Orangeworks trade marks in relation to its accounting software products is likely to deceive or cause confusion.

One level of this legal test related to whether the parties' respective goods and services offered are the same or similar in the mind of the consumer. What Orange attempted to demonstrate was the extensive use of their trademark in telecommunication goods.

However, the Registrar of Trade Marks held that the specific goods covered by the Orangeworks trademark, namely software programmes relating to accounting, is sufficiently dissimilar to the telecommunications goods and services covered by Orange's trade mark registrations. In addition, Orangeworks products serve and cater for a very specialised, usually academically qualified market – largely accountants – which would in all probability, when buying software or IT products, be more discerning than the Orange target market for which Orange caters.

Due to the nature of the Orangeworks goods, their specific target market and the manner in which these goods are marketed and selected by members of the public the potential for confusion or deception was found to be unlikely and judgement was awarded in Orangeworks' favour on 1 September 2010.

Emmie de Kock of De Kock Attorneys represented Orangeworks and agrees that the Registrar of Trade Marks is correct in concluding that the Orangeworks and Orange trademarks are not confusingly similar when compared as wholes. "This was a real David and Goliath battle, and we are very pleased that the correct judgement was made. Registrations of trademarks should not be refused merely on the basis that it incorporates an element like Orange which is a word commonly used by traders in the IT, software and telecoms sectors," said de Kock

Orangeworks Software CEO Siegfried Rousseau said: "Our core business is and always has been accounting software and not just any software. It is this focus that actually formed the basis of our application for our trademark and ultimately won us the battle.

We are glad to be able to put this behind us and focus on our core business. We love what we do and it is very rewarding to see the value that we add to our customers," added Rousseau.

Orangeworks Accounting Software was launched to the public in November 2006. The company's mission is to supply the South African market with the best possible accounting software at the most affordable rate. Customers range from single users who work from home to multi million rand corporations that have many users accessing the software simultaneously.

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