



HIGH COURT OF AUSTRALIA

10 December 2025

BED BATH 'N' TABLE PTY LTD (ACN 005 216 866) v GLOBAL RETAIL BRANDS
AUSTRALIA PTY LTD (ACN 006 348 205)
[2025] HCA 50

Today, the High Court unanimously allowed an appeal from the Full Court of the Federal Court of Australia. The appeal concerned the use of a trade mark in circumstances alleged to have constituted conduct in trade or commerce that was misleading or deceptive or likely to mislead or deceive in contravention of s 18(1) of the *Australian Consumer Law* ("ACL").

The trade mark was "House Bed & Bath" ("the House B&B mark"). The respondent, Global Retail Brands Australia Pty Ltd ("GRBA"), had used the House B&B mark as the name of its new soft homewares stores (the House B&B stores) first launched in 2021. This included the use of the House B&B mark on the external signage over the entrance to those stores, internal store signage, the House website, store receipts, social media, shopping centre directories and advertising and promotional materials, gift cards and employee name badges.

The appellant, Bed Bath 'N' Table Pty Ltd ("BBNT"), was a well-established brand in the soft homewares industry. It conducted a business operating a network of stores throughout Australia selling soft homewares under trade marks including "BED BATH 'N' TABLE" ("the BBNT mark") since 1976. Until the opening of GRBA's first soft homewares store using the House B&B mark and branding, BBNT had been the only retailer in Australia that used the words "bed" and "bath" in its name for over 40 years.

The primary judge in the Federal Court of Australia (Rofe J), having found that GRBA's use of the House B&B mark did not infringe the BBNT mark as provided by s 120(1) of the *Trade Marks Act 1995* (Cth), in that the House B&B mark was not "substantially identical with, or deceptively similar to" the BBNT marks, found that GRBA's conduct was nevertheless misleading or deceptive in contravention of s 18(1) of the ACL. The primary judge found that GRBA's "wilful blindness" to the possibility of confusion was relevant to the objective question of whether GRBA's conduct was misleading or deceptive. GRBA appealed against the primary judge's orders, and the Full Court of the Federal Court of Australia (Nicholas, Katzmann and Downes JJ) allowed the appeal.

BBNT applied for and was granted special leave to appeal to the High Court. The High Court unanimously held that the reasoning of the Full Court had miscarried. The primary judge's reasons disclosed no error of legal principle, fact-finding or reasoning process. Accordingly, there was no scope for interference with the primary judge's orders.

This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.