

**IN THE SUPREME COURT OF NEW ZEALAND**

**SC 21/2007  
[2007] NZSC 41**

BETWEEN                      AUSTIN NICHOLS & CO INC  
   Appellant  
  
AND                              STICHTING LODESTAR  
   Respondent

Court:                      Blanchard, Tipping and McGrath JJ  
  
Counsel:                  E C Gray and T J Walker for Appellant  
                                 B P Henry for Respondent  
  
Judgment:                7 June 2007

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**JUDGMENT OF THE COURT**

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**A   Leave to appeal is granted.**

**B   The approved grounds for appeal are:**

- 1   Whether the Court of Appeal's formulation of the approach that the High Court should take on an appeal against a decision on registration of the Commissioner of Trade Marks was correct.**
- 2   If the Court's answer to question 1 is "No", what approach should have been taken by the High Court and how should the respondent's appeal against the Assistant Commissioner's decision in this case be determined?**

Solicitors:  
Simpson Grierson, Auckland for Appellant  
Dennis J Gates, Whangaparua for Respondent