

The Anatomy
of Trademark Use:
The MILADY Case

A Case Study on Evidence Investigation & The Rule of Logic

Citation:
Supreme Administrative Court
110-Shang-442 Administrative
Judgment



THE SUBJECT



註冊第 1186891 號
第 25 類：女鞋、女用涼鞋、鞋子、拖鞋、高跟鞋、馬靴、男鞋、休閒鞋、皮鞋、男用涼鞋、布鞋、球鞋、運動鞋、童用運動鞋、海灘鞋、雨鞋、童鞋、鞋套、鞋墊

The Mark: Registration No. 1186891 MILADY & Device

The Scope: Class 25 (Women's shoes, sandals, slippers, boots, men's shoes, sports shoes, etc.)

THE CONFLICT



The Legal Threat: Trademark Act Article 63, Paragraph 1, Subparagraph 2.

Revocation due to continuous non-use for 3 years without good cause.



May 9, 2005
Mark Registered



Sep 27, 2019
Revocation Application
filed by Intervener



Apr 16, 2020
TIPO revokes the
registration



Intervening Phase
Intellectual Property Court
dismisses Appellant's suit



Present Phase
Supreme Administrative
Court remands the case

The Critical Date -
Must prove use in
the 3 years prior to
this day

Appellant / TM Owner

- Goal: Prove “genuine use” within the strict 3-year window.
- Strategy: Submit a chain of manufacturing, shipping, and retail evidence.

Intervener / TIPO

- Goal: Revoke the mark permanently.
- Argument: Evidence is disconnected, circumstantial, and lacks concrete proof of consumer-facing use.

The Core Dispute: Did the Intellectual Property Court fulfill its statutory duty to investigate the evidence presented by the trademark owner?

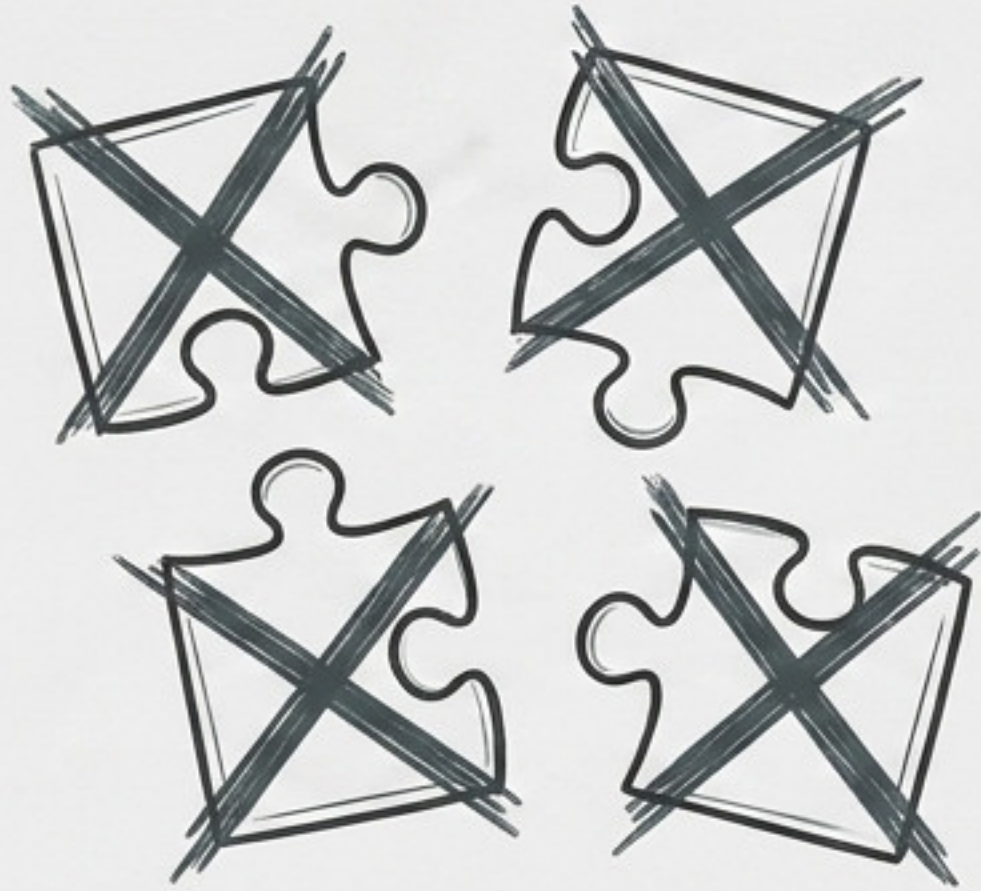


The Statute: Administrative Litigation Act §176
(mutatis mutandis Civil Procedure Act §286)

The Rule: The court **MUST** investigate evidence declared by parties, unless it is deemed “unnecessary.”

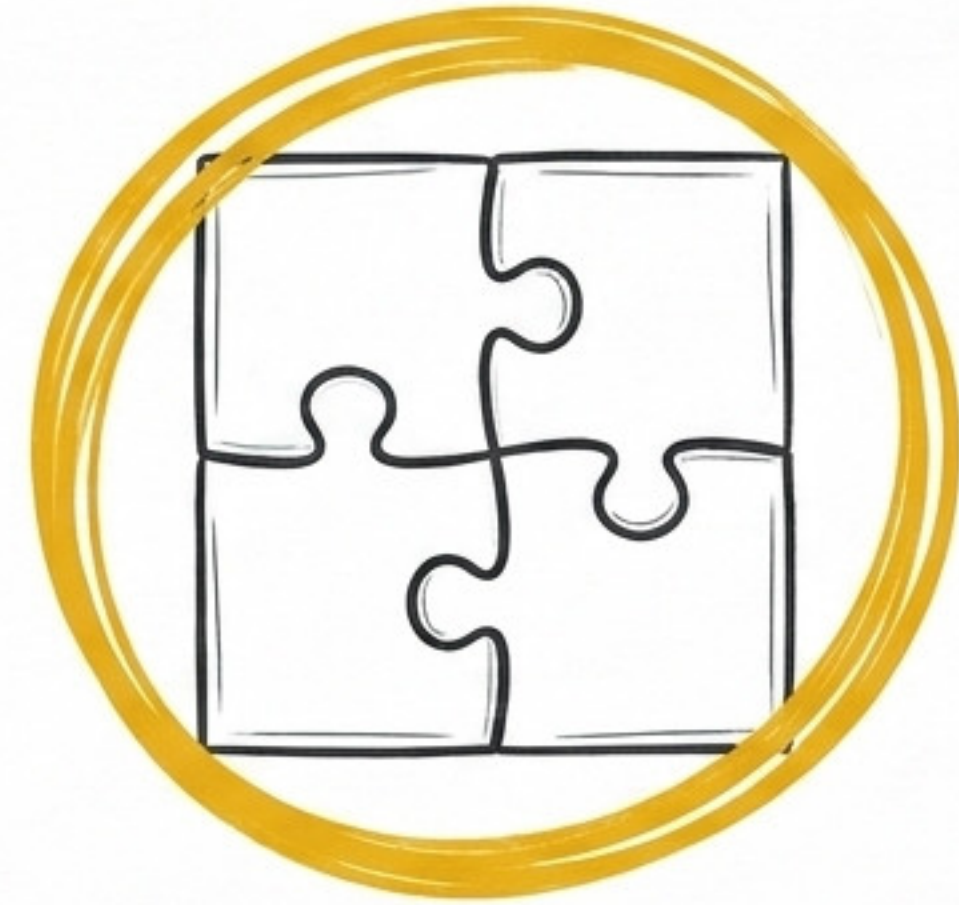
Supreme Court's Interpretation: "Unnecessary" strictly means irrelevant to the facts. If evidence has ANY relevance, it cannot be prejudged as useless without a proper investigation.

IP Court *Fragmented Evaluation*



Examined each piece of evidence in strict isolation. Found minor doubts (mismatched codes, missing logos). Dismissed all proving power individually.

Supreme Admin Court *Holistic Evaluation*



Applied the 'Rule of Logic.' Acknowledged that single pieces cannot prove the fact alone. Required comprehensive observation to build a factual foundation through logical reasoning.

Shipping Invoice

Store names:

Tuen-Meimei

Client No: 600019 Chiayi-Meimei

Daily Log Sheet

Code: 600019

Evidence #1: Shipping Orders & Daily Reports

- **The Disconnect:** Store names and addresses were hand-written by the Appellant.
- **The Logical Link:** Shipping order states "Client No: 600019 Chiayi-Meimei." Daily log abbreviation is exactly "600019."

Supreme Court Finding: Documents can be explicitly cross-referenced. Validly proves goods were shipped to retail stores via logistics prior to the deadline.

Evidence #2: Product Tags vs. Shipping Codes



The Conflict

Tag reads '096-JOA02-00-4'.
Shipping order reads 'JOA02'.

IP Court Error

Codes do not match exactly. Evidence dismissed.

Supreme Court Correction: The core identifier 'JOA02' matches perfectly. Appellant explained the surrounding digits are the client's internal system codes. The lower court was mandated to investigate this business practice with the retailer, not arbitrarily dismiss the matching data.



Evidence #3: The Missing Witness

The Evidence: Request to summon the actual owner of Meimei Shoes, who provided an affidavit confirming sales of MILADY shoes since 2017.



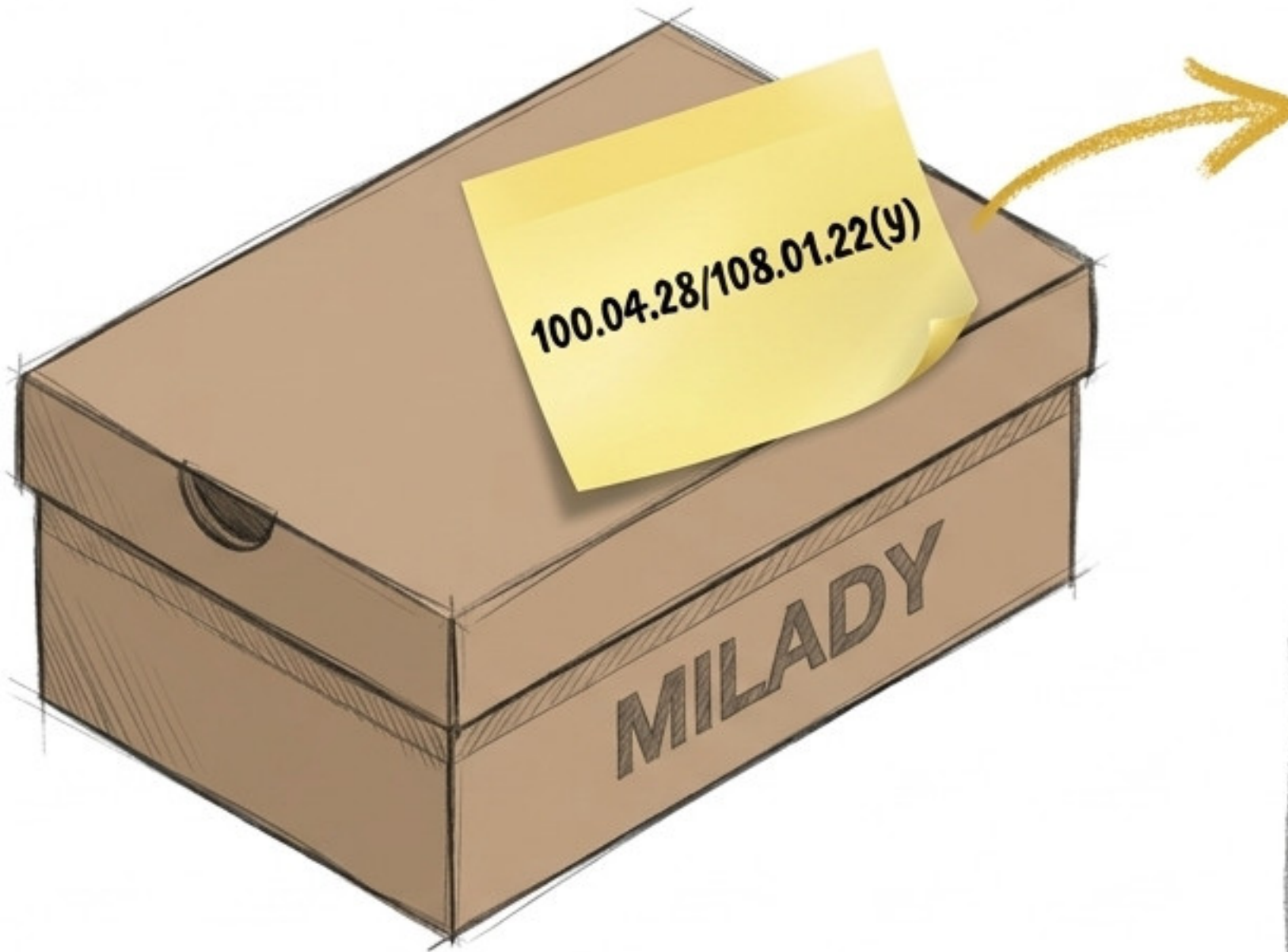
IP Court Error: Refused to summon, assuming inherent commercial bias due to the buyer-seller relationship.

Supreme Court Correction: The retailer is highly relevant to proving continuous consumer-facing use. Refusing to hear testimony based solely on presumed commercial bias is a direct violation of procedural investigation duties (Admin Lit Act §176).

Evidence #4: Packaging & Printing

- **The Evidence:** Printer's affidavit confirming production of MILADY boxes since 2016, plus internal sales return receipts.
- **IP Court Error:** Rejected because the exact meaning of the date stamp was unclear, and internal receipts lacked the trademark logo.

Supreme Court Correction: It is standard commercial practice for internal accounting receipts to omit trademark logos. Instead of rejecting the affidavit, the court was obligated to ask the printing company directly what the date stamp meant.





Original judgment vacated.

Case remanded to the Intellectual Property and Commercial Court.

[The lower court's failure to investigate relevant evidence and its reliance on fragmented evaluation severely violated the rules of evidence, logic, and commercial experience.]



Takeaway 1: The Chain of Evidence

You do not need one “perfect” document. A holistic chain—connecting manufacturing, shipping logs, retail affidavits, and product tags—legally establishes genuine use.



Takeaway 2: Business Reality Matters

Courts cannot ignore standard commercial practices. Internal client SKU codes and logo-free accounting receipts are valid realities of trade, not automatic grounds for evidence dismissal.



Takeaway 3: Demand Investigation

If an opposing party claims evidence is incomplete, leverage Administrative Litigation Act §176. Compel the court to summon witnesses or clarify ambiguities directly with suppliers.

Synthesized from
Supreme Administrative
Court 110-Shang-442