

The diagram features a central title 'The "First-to-File" Principle in Practice' enclosed in large teal brackets. To the left, a vertical teal line with horizontal tick marks and yellow highlights is accompanied by a star icon labeled 'Legal Precedent!' and a yellow circle labeled 'Aha! Moment'. To the right, a teal bracket is annotated with 'Key Concept' and 'Case Study Focus' (with a checkmark). Below the title, a teal checkmark points to the subtitle 'A Trademark Infringement Case Study: Medical Aesthetics & Brand Protection', which is underlined. Another teal checkmark points to this subtitle from the right. Below the subtitle, a teal checkmark points to the source box. The source box is a grey rectangle with a teal pin icon, containing the text 'Source: Intellectual Property and Commercial Court, 2022 Civil Trademark Litigation No. 51 (Judgment Date: 2023-12-01)'. A curved teal arrow points from the 'Case Study Focus' annotation down to the source box. The entire diagram is set against a light blue background with a vertical teal line on the left.

The "First-to-File" Principle in Practice

✓ A Trademark Infringement Case Study: Medical Aesthetics & Brand Protection

✓ Key Concept

Key Concept

Case Study Focus

Source: Intellectual Property and Commercial Court, 2022
Civil Trademark Litigation No. 51 (Judgment Date: 2023-12-01)



The Golden Rule of Trademark Protection

Taiwan operates on a strict Registration System,
not a Use System.

The Trademark Act requires formal registration and
publication by the competent authority to claim any
exclusionary rights.

Pre-registration use ≠ Protected!



Asset: TM 01999922
(Class 44: Medical
Aesthetics)

Status: Owned by Plaintiff

Registered: 2019-07-16



Motiva

Asset: TM 02067049
(Class 44: Medical
Services)

Status: Exclusive Licensee

Registered: 2020-06-16



Motiva

Asset: TM 02107596
(Class 10: Medical
Instruments)

Status: Exclusive Licensee

Registered: 2020-12-16

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Registered

The Plaintiff

Medical Equipment Company

Owner / Exclusive Licensee of
the protected assets in Taiwan.

Vs.

The Defendants

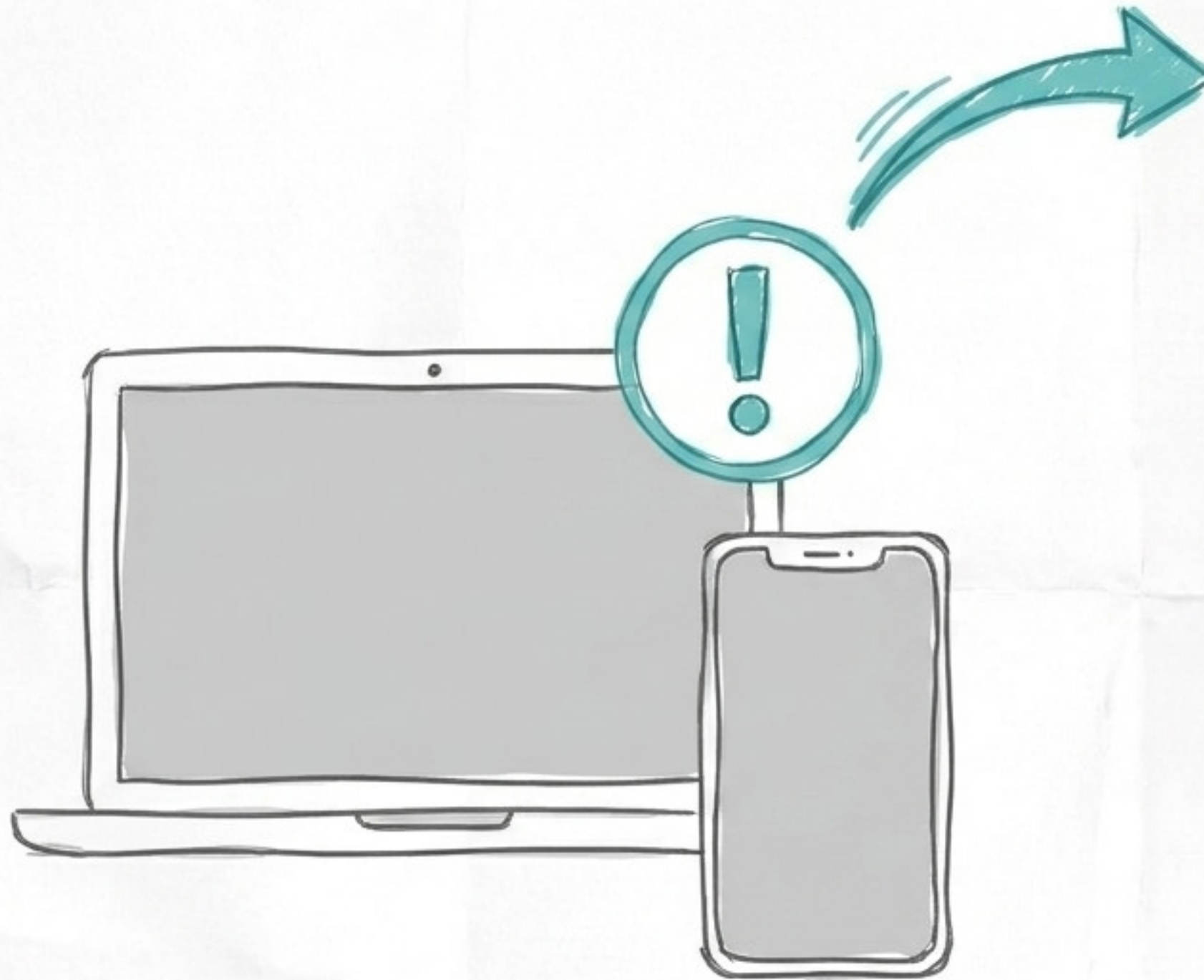
Defendant 1 (The Operator)

Actual person-in-charge of the
medical beauty clinic. Has full
decision-making power.

*Operates under
direction of*

Defendant 2 (The Marketer)

Employee responsible for
creating YouTube videos and
website promotional articles.



The Action

Unauthorized use of the registered trademarks in clinic YouTube videos and website articles to promote breast augmentation surgery.

Primary Legal Claim

Trademark Act §68(1)(2) — Use of identical/similar marks on identical/similar services, causing a likelihood of confusion for marketing purposes.

Secondary Legal Claim

Civil Code §185(1) — Joint liability for torts (Plaintiff argued both defendants acted together).

Unprotected Period

Defendant 2
creates and posts
promotional
materials.

**Dec 2018 –
May 2019**

Plaintiff
officially
registers TM 1.

2019-07-16

**CRITICAL
DATE**

Legal Protection Begins

Defendant 2
officially leaves
the clinic.

Jan 2020

Defendant 1 is
formally notified
by police but
continues use.

Dec 2020

Evaluating Defendant 2 (The Marketer)

The Evidence: Ad materials were dated Dec 2018, Apr 2019, and May 2019.

The Status: She officially left the clinic in Jan 2020.

Court's Ruling: **Not Liable**

Legal Anchor: All proven actions occurred before the July 2019 registration of TM 1. Without formal registration and publication, no trademark right exists to be infringed.

You cannot infringe a right that does not legally exist yet.

Evaluating Defendant 1 (The Operator)



Negligence (Duty of Care)

As a medical aesthetics operator collaborating with foreign clinics, he is held to a higher standard to verify industry trademarks than a general consumer. Ignorance is not a defense.



Intent (Post-Notice)

Continued unauthorized use of the promotional materials even after formal police notification in Dec 2020.

Court's Ruling: Liable.

Legal Anchor: Liability established through negligence and subsequent intent under Trademark Act §69(3) and Civil Code §184(1).

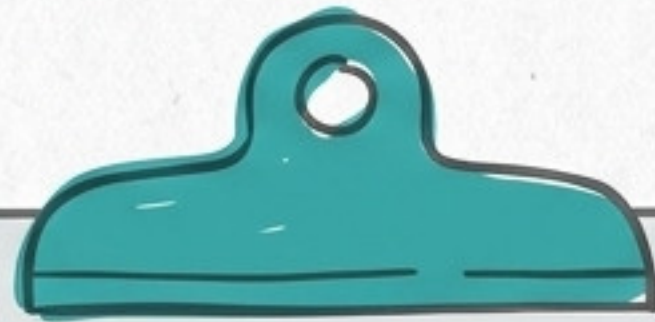
Dimension	Defendant 1 (Operator)	Defendant 2 (Marketer)
Role & Duty	Decision Maker (Higher Duty of Care)	Employee (Execution)
Action Timing	Continued use post- registration & post- notice	Actions ceased before registration
Final Verdict	Liable (Negligence + Intent) 	Not Liable (No valid trademark existed) 

Calculating the Damages (Trademark Act §71(1)(3))

Base Unit: Retail price of the medical service = NT\$ 66,000

The Multiplier: The Court rejected the Plaintiff's demand for a 63x multiplier, assessing the limited scale of proven infringement (only 1 proven client, shared revenue). The court applied a 10x multiplier.

$$\text{NT\$ 66,000} \times 10 = \text{NT\$ 660,000}$$



Judgment Summary & Strategic Insights



1. File Early, Protect Early

The strict First-to-File registration system means legal protection only begins on the exact date of official registration. Pre-registration commercial use remains highly vulnerable.



2. The Industry Duty of Care

Business operators and decision-makers face a significantly higher legal bar for negligence regarding competitor trademarks. Claiming ignorance of an industry trademark is not a valid defense.



3. Timing Severs Joint Liability

Claims of joint liability (Civil Code §185) will break down if co-defendants operate on different timelines relative to the official trademark registration date.