

Trademark Opposition & Distinctiveness: A Case Study

Analysis of Supreme Administrative Court
Judgment Year 111, Shang No. 463

Decided in 2022

Inherent Distinctiveness | Secondary Meaning | Evidentiary Standards

The Subject Matter (Registration No. 02031242)

Registered on December 16, 2019

科研市集

Class 001: Industrial/scientific chemicals

Class 009: Laboratory instruments

Class 035: Retail/wholesale of chemicals and precision instruments

Class 042: Scientific research & new product development

Highly technical & scientific scope.

The Opposition Battleground

Appellant (Trademark Applicant)

Claim:

The combination of words generates a unique, inherent meaning.

Argument:

The mark possesses Inherent Distinctiveness. Even if not, widespread use post-registration proves Acquired Distinctiveness (Secondary Meaning).



Appellee (TIPO & Intervener)

Claim:

The mark violates Trademark Act Article 29(1)(1).

Argument:

The text merely describes the goods/services. It lacks Inherent Distinctiveness and failed to establish Secondary Meaning prior to registration.

The Three Pillars of the Judgment

1

Issue 1: Inherent Distinctiveness

Does the mark directly describe the goods/services?

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Issue 2: The Factual Benchmark Time

At what exact point in time must “Secondary Meaning” be proven in an Opposition Proceeding?

3

Issue 3: Evidentiary Standards

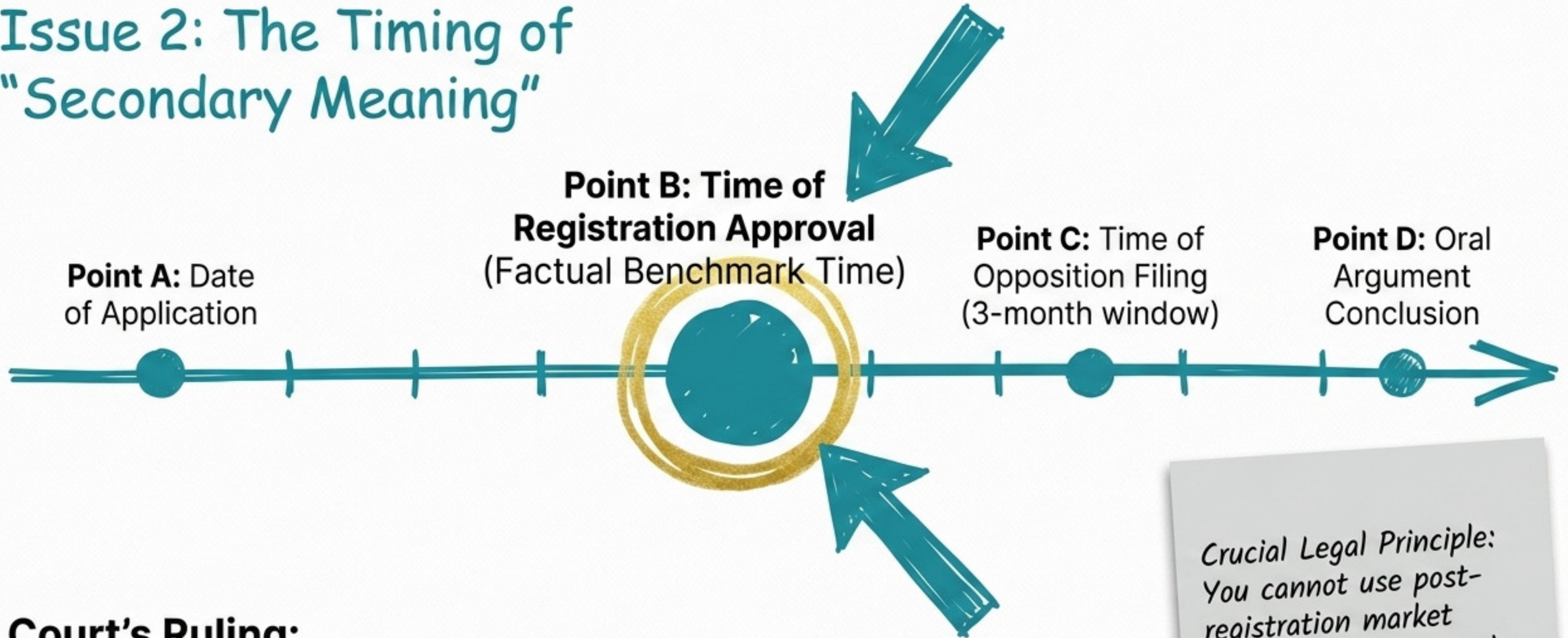
How do we assess distinctiveness when the text is always used alongside other graphic logos?

Issue 1: Assessing Inherent Distinctiveness



Trademark Act Article 29(1)(1): Marks consisting exclusively of descriptive terms regarding quality, intended purpose, or relevant characteristics cannot be registered.

Issue 2: The Timing of "Secondary Meaning"

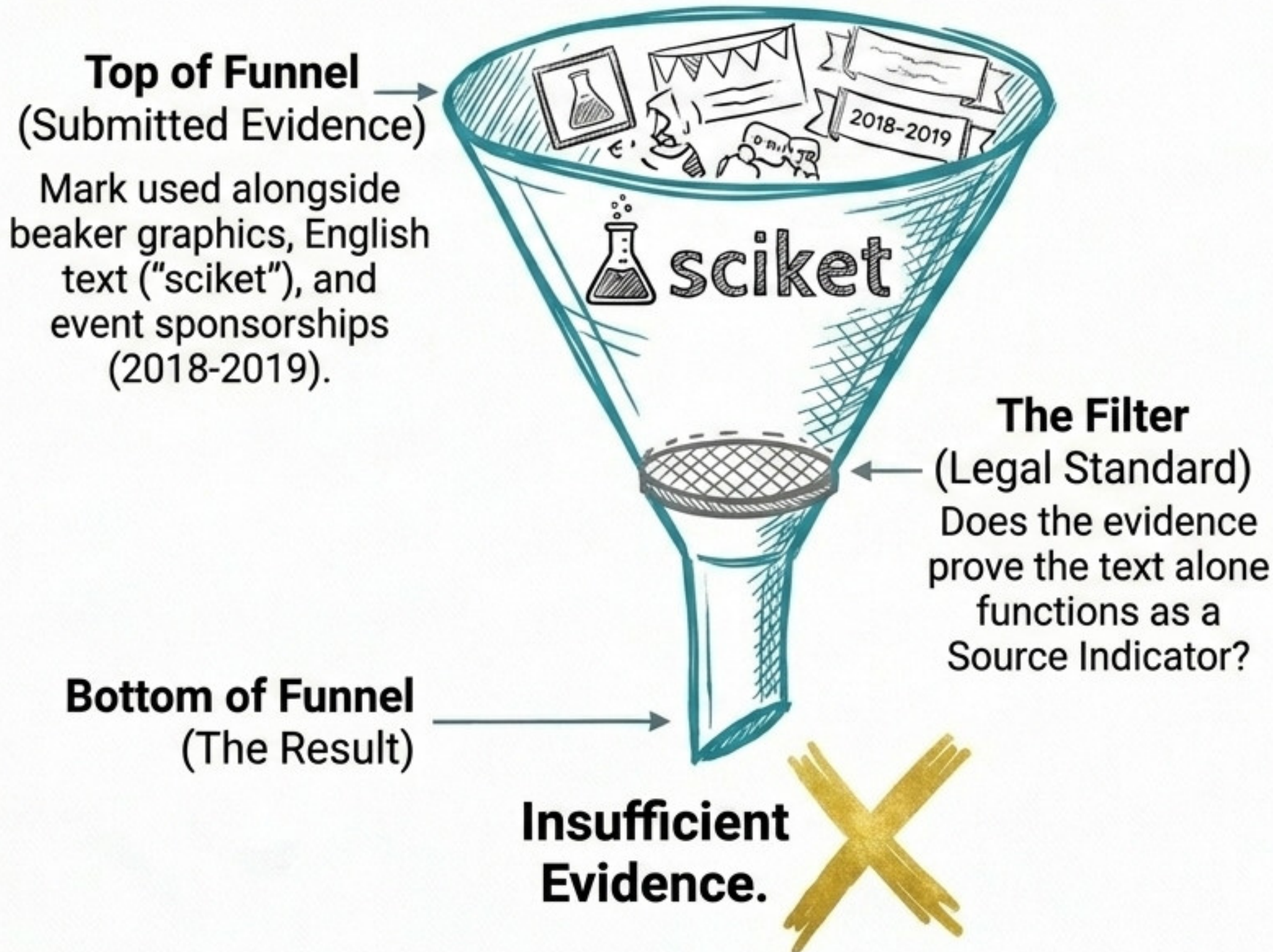


Court's Ruling:

In an Opposition Proceeding, the assessment of Acquired Distinctiveness **MUST** be based on the factual state at the **Time of Registration Approval**.

*Crucial Legal Principle:
You cannot use post-registration market success to retroactively cure a registration defect during an opposition.*

Issue 3: Disentangling Combined Marks



The Court's Ruling:

When a highly descriptive term is frequently merged with other distinct logos, a significantly higher burden of proof is required to demonstrate that consumers recognize the text alone as a unique Source Indicator.

Final Judgment & Key Takeaways



(Supreme Administrative Court
Judgment Year 111, Shang No. 463)



Takeaway 1 (Distinctiveness):

Combining a generic abbreviation with a disclaimed term (like 'market') rarely generates Inherent Distinctiveness without additional design.



Takeaway 2 (Evidence Timing):

In Opposition Proceedings, the evidentiary clock stops at the **Time of Registration Approval**. Marketing evidence generated after registration is legally inadmissible.



Takeaway 3 (Brand Usage):

If you intend to register a pure text mark, your marketing evidence must show the text being used independently as a **Source Indicator**, not just buried inside complex composite logos.