



Trademark Dispute: NAVY vs. OLD NAVY

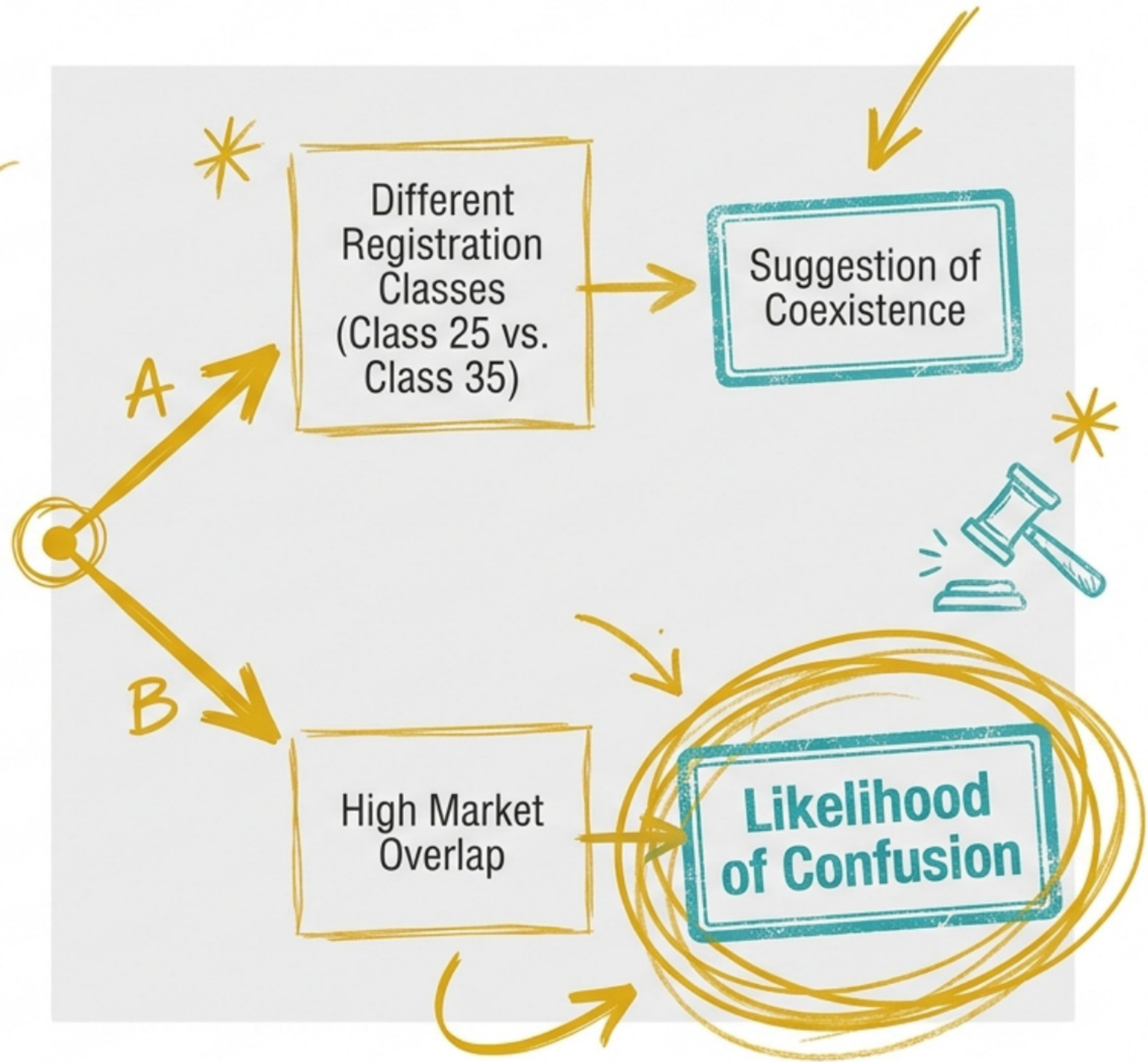
An Educational Analysis of the
Likelihood of Confusion in
Cross-Class Services

*Focus:
Article 30(1)(10)*

Source: Supreme Administrative Court,
Case No. 111-Shang-908 (Date: 2022)

The Core Legal Question

Can a trademark application be denied if the designated goods/services belong to different classes, yet cause a likelihood of confusion?



APPELLANT

NAVY

Mark: NAVY

Reg No. 02002482

Class 35
(Retail/wholesale of clothing, department stores, online shopping)

INTERVENOR

OLD NAVY

Mark: OLD NAVY

Reg Nos. 00704944,
01195518

Classes Clothing
25 (Clothing),
18 (Bags), 35
(Retail)

The Collision Point



The Diagnostic Legal Framework

Trademark Act Article 30, Paragraph 1, Subparagraph 10



Factor 1 Analysis: Trademark Similarity



Observation Principle: Overall Observation + Dominant Portion.

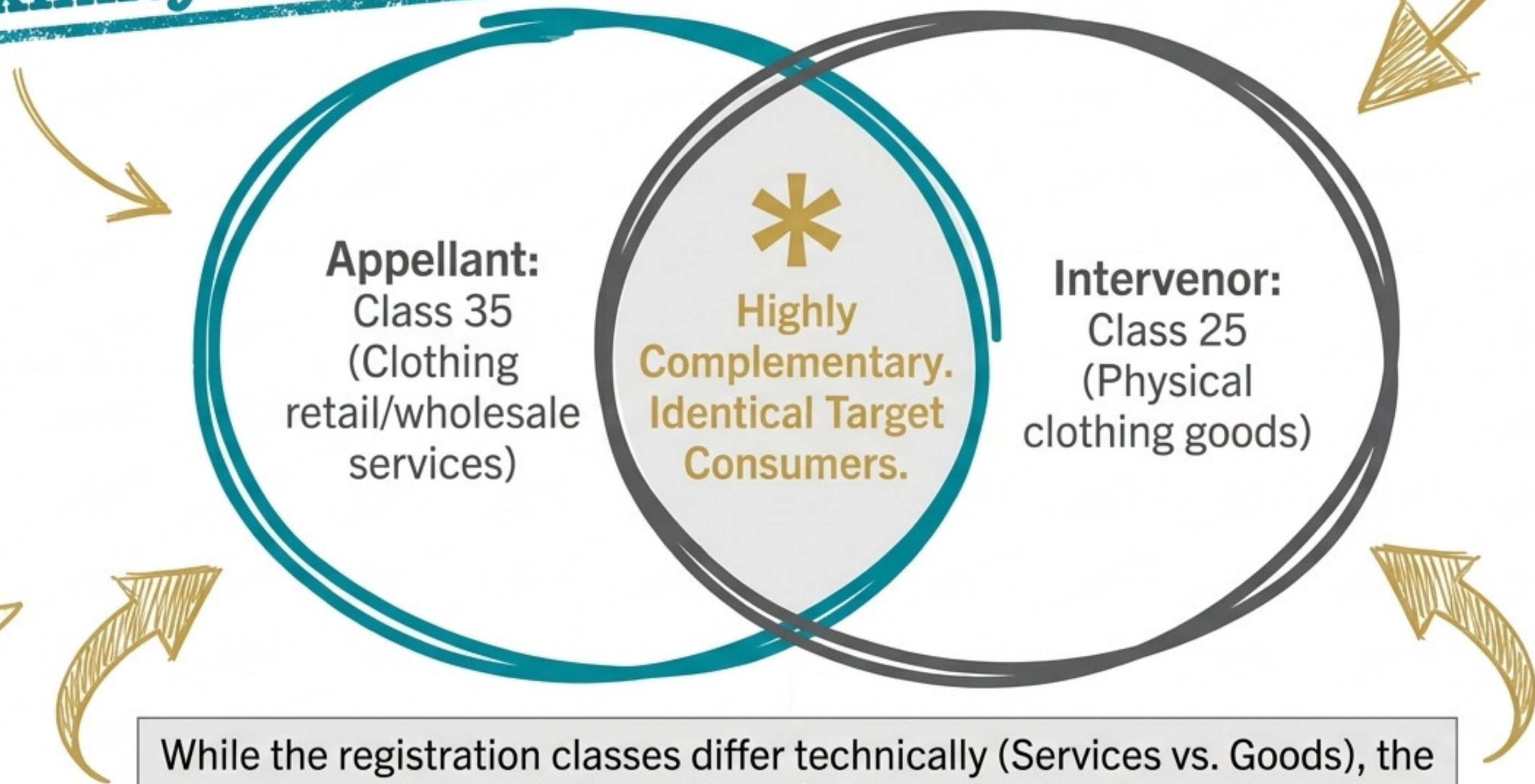
Both utilize the capitalized, unstylized English word NAVY as the primary identifier.

Conceptual Translation:

Readily translated by domestic consumers as Navy and Old Navy.

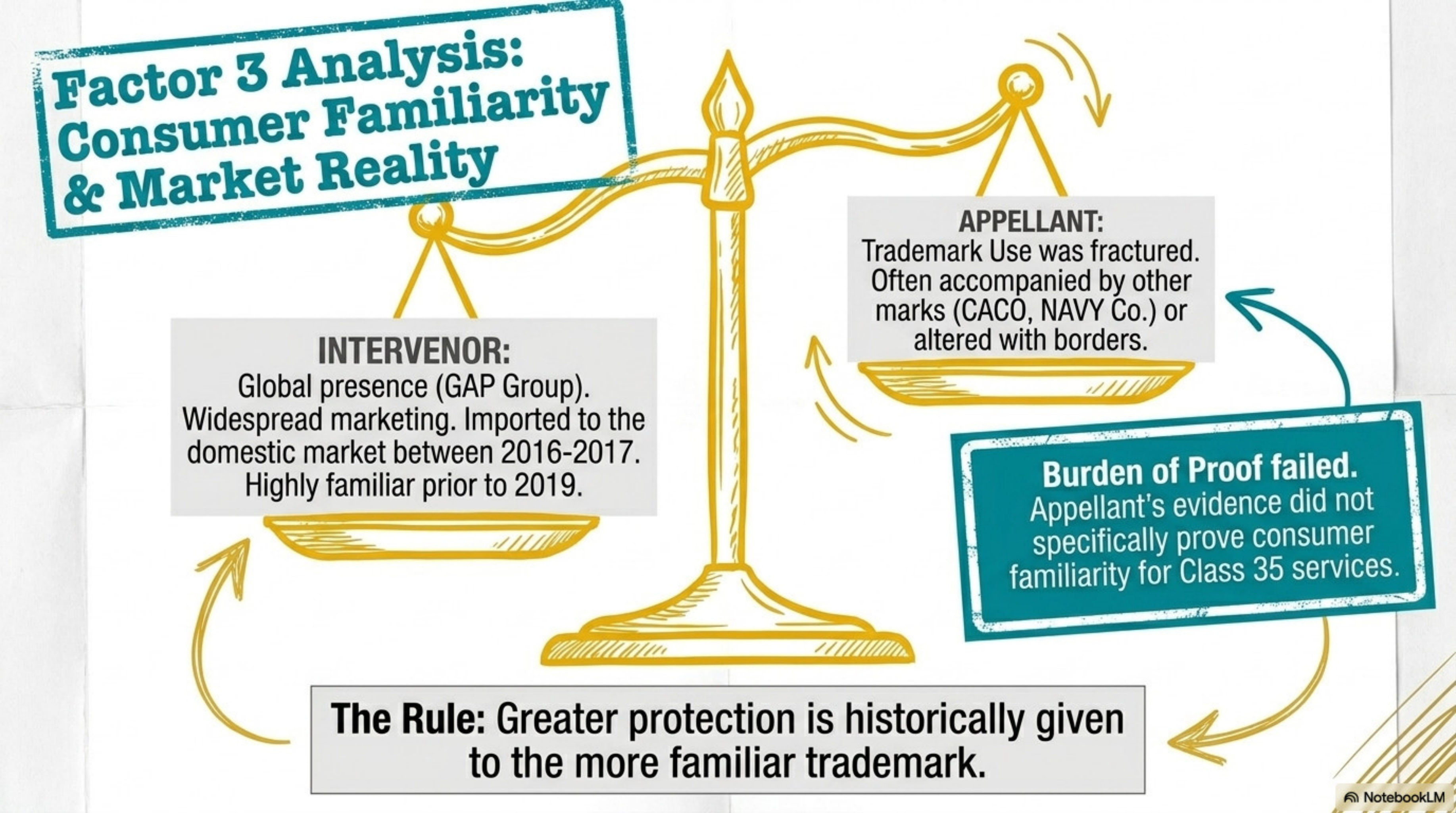
Result: High degree of visual, phonetic, and conceptual similarity.

Factor 2 Analysis: Proximity of Goods & Services



While the registration classes differ technically (Services vs. Goods), the commercial reality is intertwined. Selling apparel and manufacturing apparel target the exact same relevant consumers in the market stream.

Factor 3 Analysis: Consumer Familiarity & Market Reality



INTERVENOR:

Global presence (GAP Group).
Widespread marketing. Imported to the
domestic market between 2016-2017.
Highly familiar prior to 2019.

APPELLANT:

Trademark Use was fractured.
Often accompanied by other
marks (CACO, NAVY Co.) or
altered with borders.

Burden of Proof failed.
Appellant's evidence did not
specifically prove consumer
familiarity for Class 35 services.

The Rule: Greater protection is historically given
to the more familiar trademark.

The Supreme Administrative Court Ruling

APPEAL DISMISSED.



- High trademark similarity (NAVY dominant portion).
- High proximity between goods and services (Class 25 vs 35).
- Intervenor holds significantly higher consumer familiarity.

The mere **Coexistence** of the marks in the market is **insufficient** to overturn the established **Likelihood of Confusion** when all primary factors align so strongly.

Key Takeaways & Legal Implications

Cross-Class Vulnerability

Retail services (Class 35) and physical goods (Class 25) are commercially inseparable in the eyes of the court.

Registering a retail service does not shield you from infringing upon an identical physical goods trademark.

Strict Evidence Standards

Evidentiary use must strictly match the registered format.



Altering the mark (adding borders) or combining it with other brands (e.g., CACO) dilutes the Burden of Proof for establishing distinct consumer familiarity.



Market Reality Overrides

Courts weigh actual market impact.



Global brand recognition and proven import timelines will secure broader protection against localized, later-filed applications.

