

The Swiss Cross Dilemma: Analyzing Intent to Plagiarize

A Legal Dissection of Trademark Act Article 30.1.12



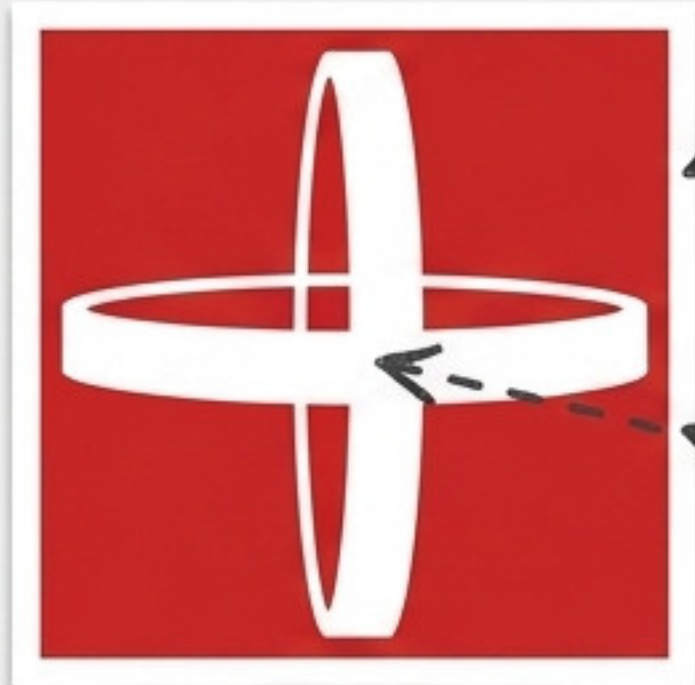
Court: Intellectual Property and Commercial
Court (Taiwan)
Judgment: 111 Xing-Shang-Su-Zhi No. 13
Date: August 3, 2023

The Trademarks on Trial

Entity: West Enterprise Co., Ltd.

Disputed Trademark: Reg. No.
02004583 (Applied Jan 29, 2019)

Goods: Class 18 (Backpacks,
luggage, wallets, etc.)



Entity: Wenger S.A. (Switzerland)

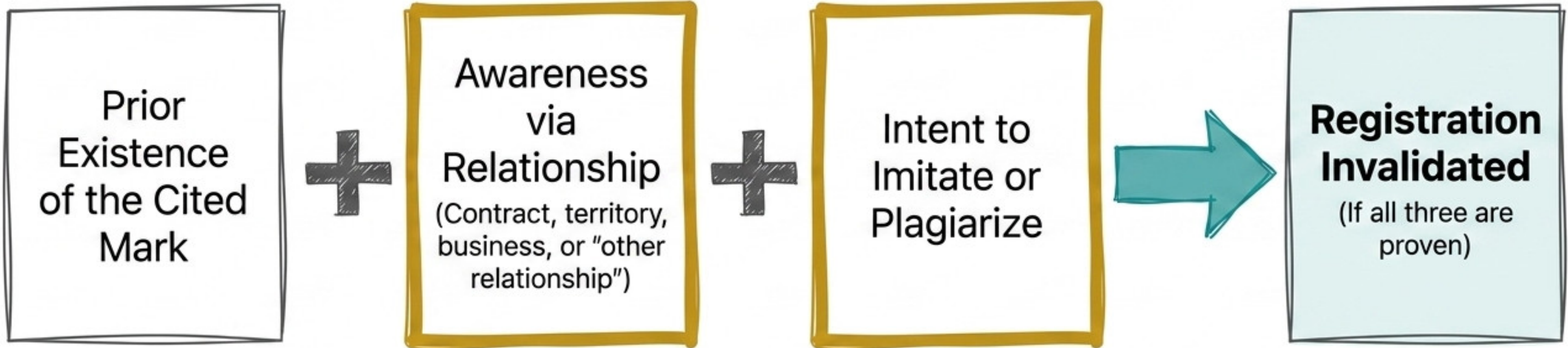
Cited Trademark: Wenger Swiss
Cross Logo

Goods: Class 18 (Backpacks,
luggage, etc.)

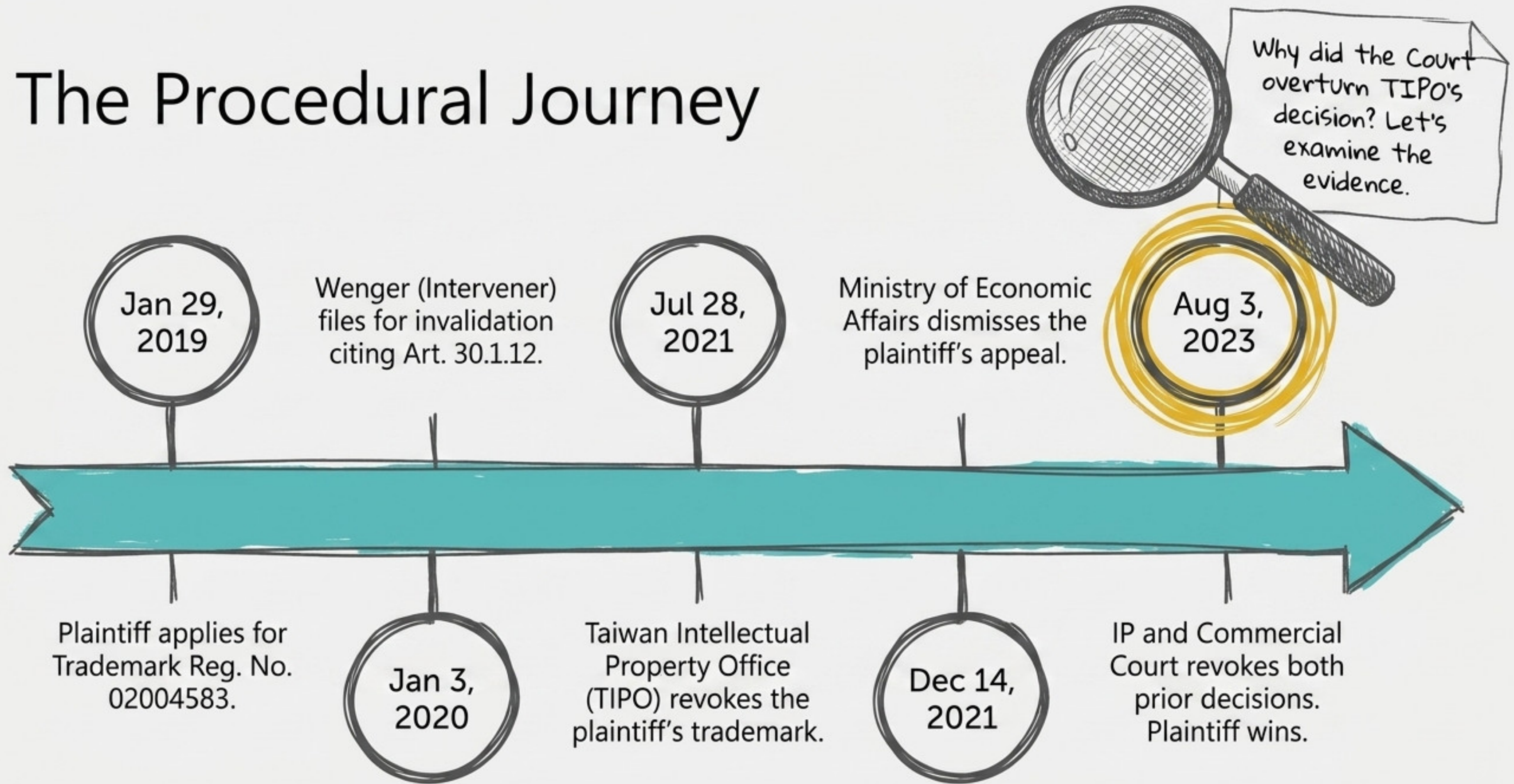


The Anatomy of Article 30, Paragraph 1, Subparagraph 12

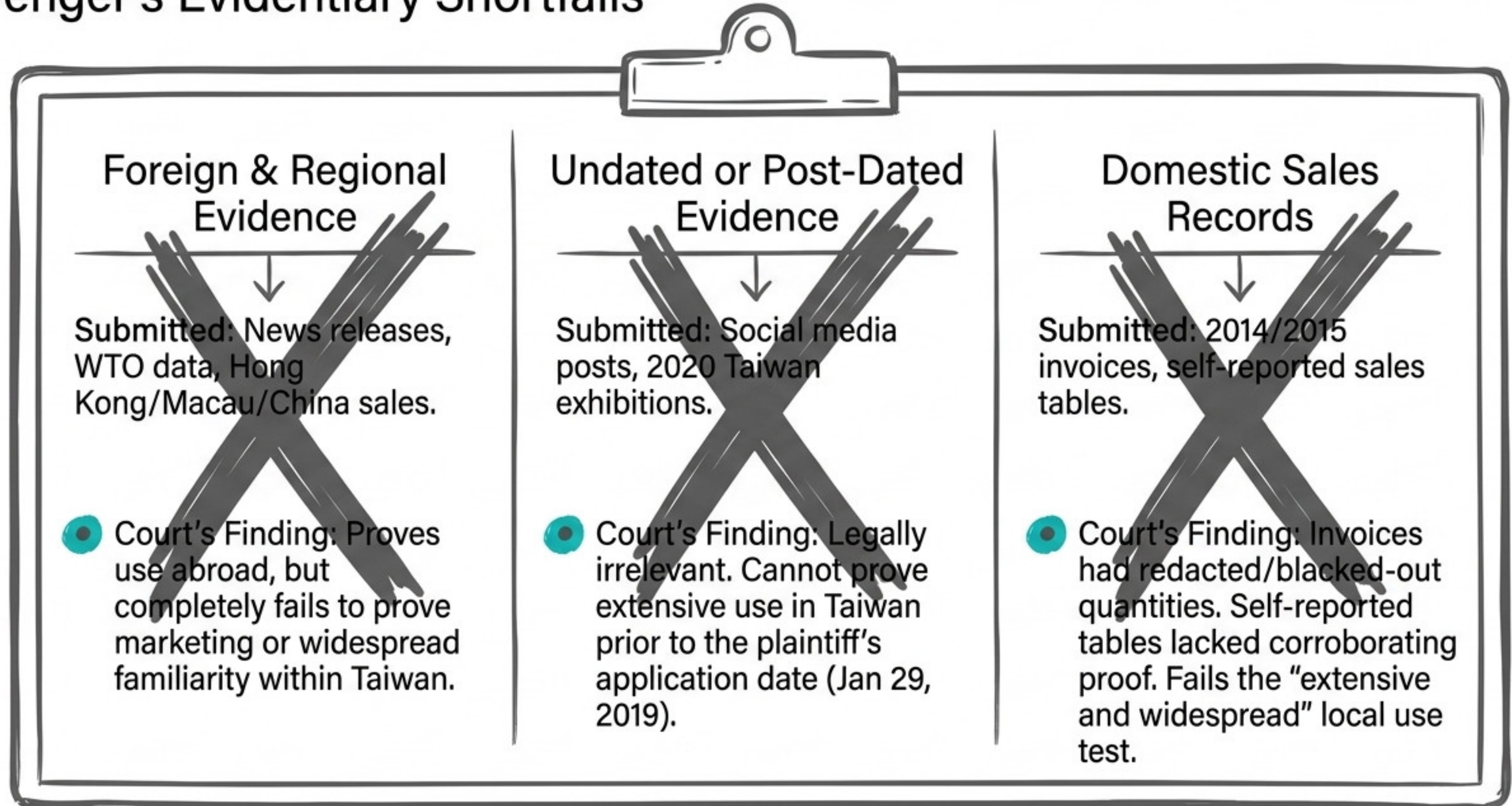
The Core Question: Did the plaintiff register the mark with "intent to plagiarize"?



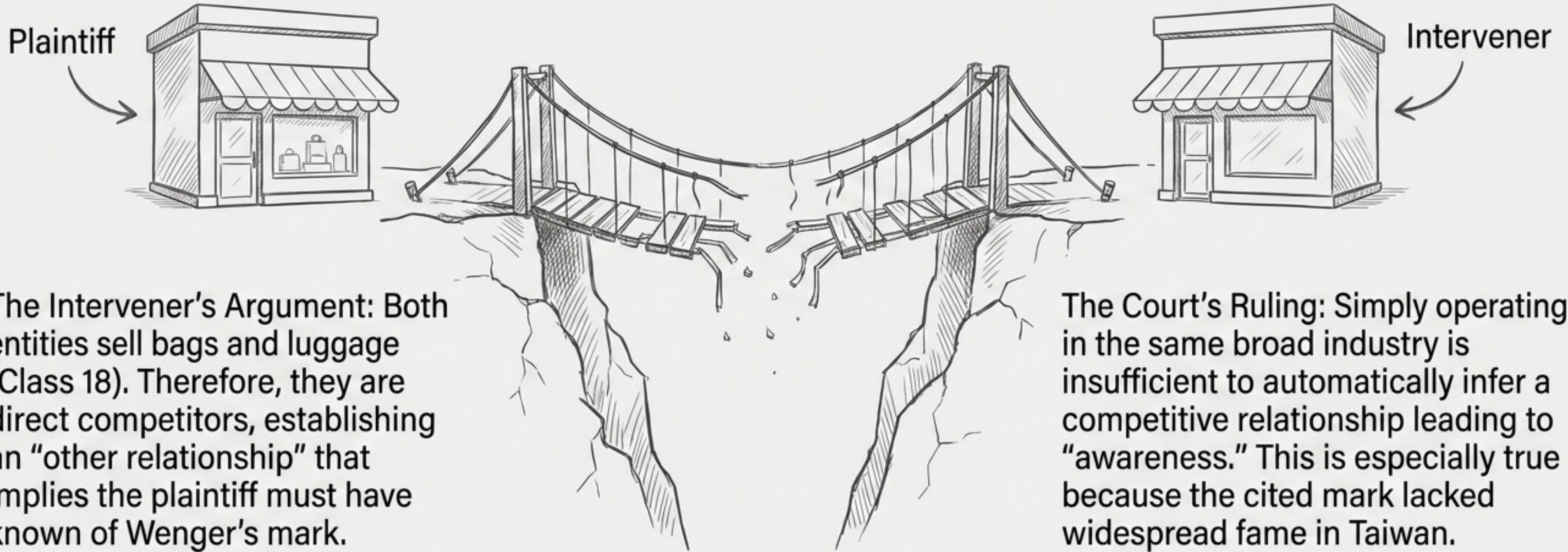
The Procedural Journey



Weighing the Evidence: Wenger's Evidentiary Shortfalls



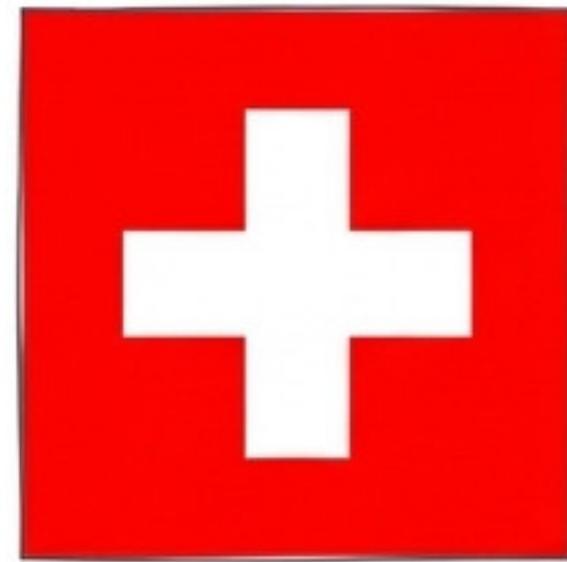
The “Relationship” Gap



Key Precedent: Industry overlap alone does not satisfy the statutory requirement for “business or other relationship.”

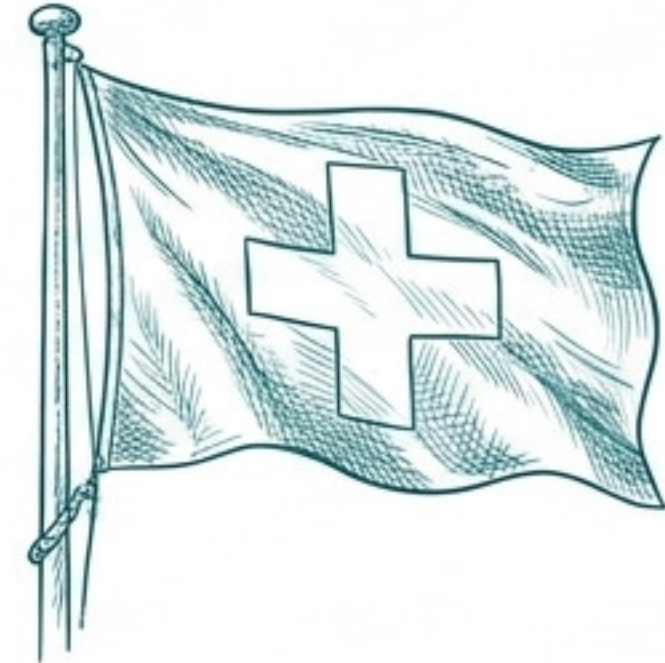
Deconstructing the Visuals: The Public Domain Defense

TIPO's Original Stance: The Plaintiff deliberately copied the highly distinct "Red Background + White Cross" combination.



White Cross

The Court's Revelation: The Intervener (Wenger) is a Swiss company. The red background with a white cross is simply the national flag of Switzerland.



Red Background

Legal Implication: The symbol is not a highly original graphic created by the intervener. Because it relies entirely on a public domain symbol (a national flag), visual similarity alone cannot automatically prove a malicious "intent to plagiarize."

The Final Verdict

Judgment III Xing-Shang-Su-Zhi No. 13



The Decision: The Appeal Decision and Original Disposition (Cancellation) are REVOKED.

- Plaintiff (West Enterprise Co., Ltd.) successfully defends its trademark registration.
- Defendant (Taiwan Intellectual Property Office) bears the litigation costs.

Judgment Insights & Strategic Takeaways



Strict Evidentiary Standards

Foreign fame does not equal domestic fame. Evidence of domestic use must be accurately dated (prior to the disputed application) and completely unredacted to prove “widespread familiarity” in Taiwan.



The Limits of “Competitor” Status

Merely selling similar goods in the same classification does not automatically establish the “business or other relationship” required by Article 30.1.12 to prove a party had prior knowledge of a mark.



The Public Domain Dilution

Trademarks incorporating national symbols or common geometric shapes face a much higher burden when claiming “intent to plagiarize.” Similarities are more easily attributed to coincidence or shared public domain inspiration rather than malicious copying.