



Anatomy of a Trademark Revocation

Administrative Judgment Analysis:
2022 Xing-Shang-Su No. 27

Court: Intellectual Property and Commercial Court
Subject: Trademark Act, Article 63,
Paragraph 1, Subparagraph 2



The Target & The Threat



Reg. No. 01076607
Registered: April 8, 2003

Revocation Scope

- Class 11
 - Air conditioners
 - Dehumidifiers
 - Heaters
 - Air purifiers
 - Central AC systems

THE THREAT: Revocation applied on January 21, 2020, due to alleged non-use.

THE CORE DISPUTE: OPPOSING STANCES



THE PLAINTIFF (BRAND OWNER)

Continuous commercial use exists.

Evidence Claimed:

- ✓ - Repairing older units
- ✓ - Active online listings
- ✓ - Sales of functionally similar goods (fans)



THE APPLICANT (INTERVENOR)

Trademark abandoned.

The legal claim:

The trademark has not been genuinely used for the specified Class 11 goods for over 3 years without good cause.

THE LEGAL FRAMEWORK

Rule 1: The 3-Year Deadline

Trademark Act, Article 63,
Paragraph 1, Subparagraph 2

A trademark shall be revoked if it has not been used, or its use has been suspended, for three continuous years without good cause.

Rule 2: The Definition of Use

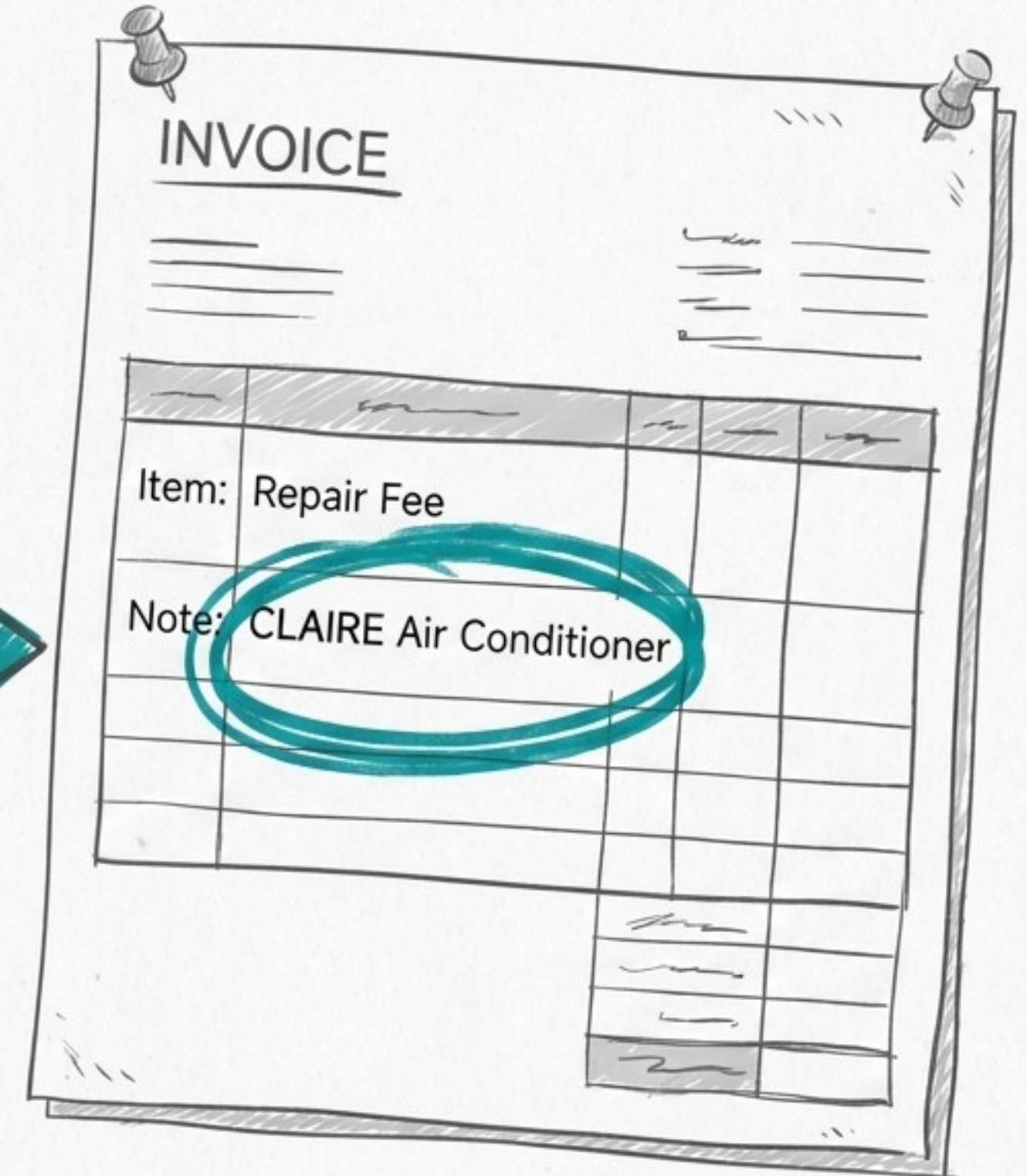
Trademark Act, Article 5

Use of a trademark means utilizing the mark for the **PURPOSE OF MARKETING** goods or services.

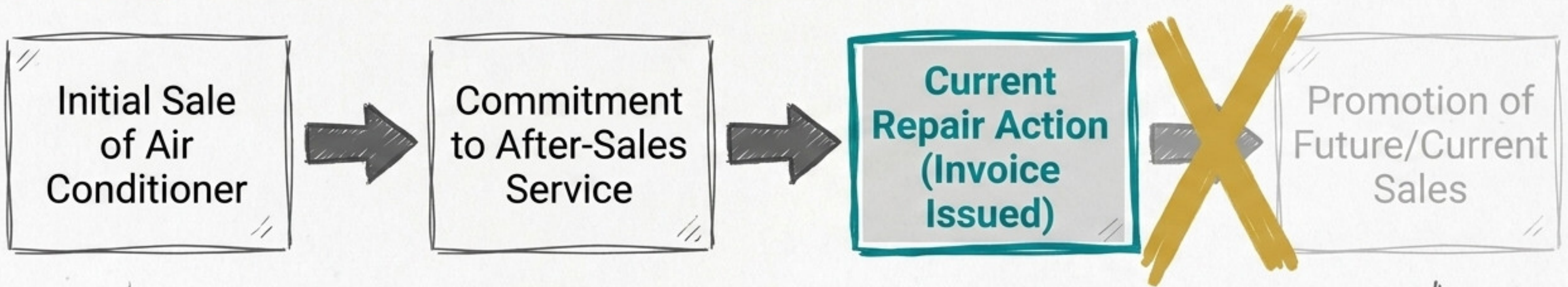
EVIDENCE ITEM 1: REPAIR SERVICES

The Plaintiff issued official repair invoices explicitly stating the brand name.

Plaintiff's Argument:
We actively repair older units and issue invoices bearing the brand name. This demonstrates ongoing commercial interaction with the trademark.



COURT'S RULING: FULFILLING THE PAST VS. MARKETING THE FUTURE



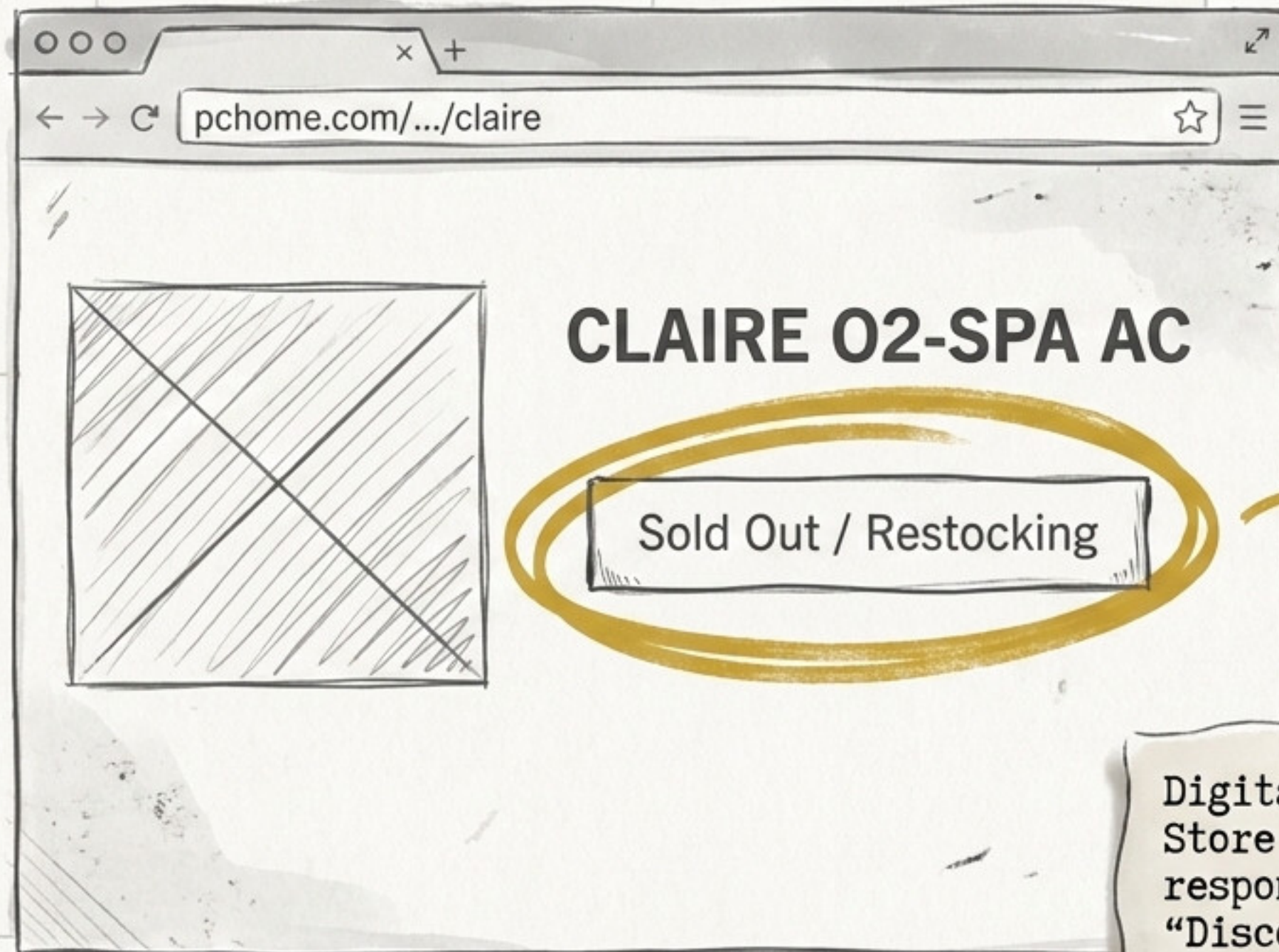
COURT'S LOGIC

- The CLAIRE air conditioners are fully discontinued.
- Repairing old units merely fulfills past commercial obligations.

Verdict: Servicing dead stock is NOT the "purpose of marketing" required by Article 5.

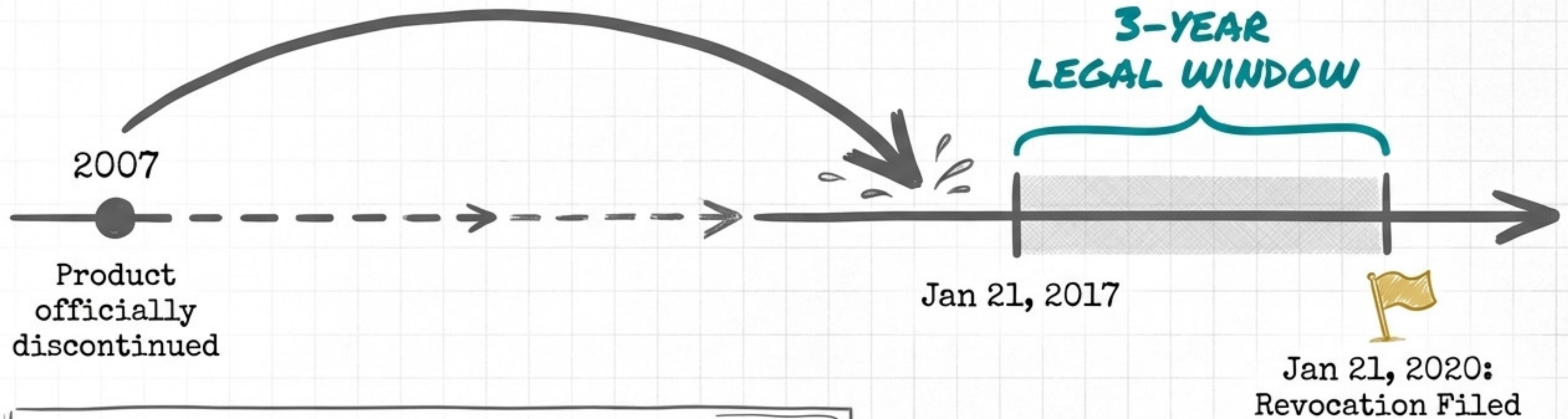
EVIDENCE ITEM 2: THE GHOST LISTINGS

Distributor maintains a public PCHOME web listing for a CLAIRE AC.



Digital Forensics Note:
Store manager's public comment
response clearly states:
"Discontinued in 2007. This is
a cached historical page."

COURT'S RULING: ARCHIVES ARE NOT ACTIVE MARKETING



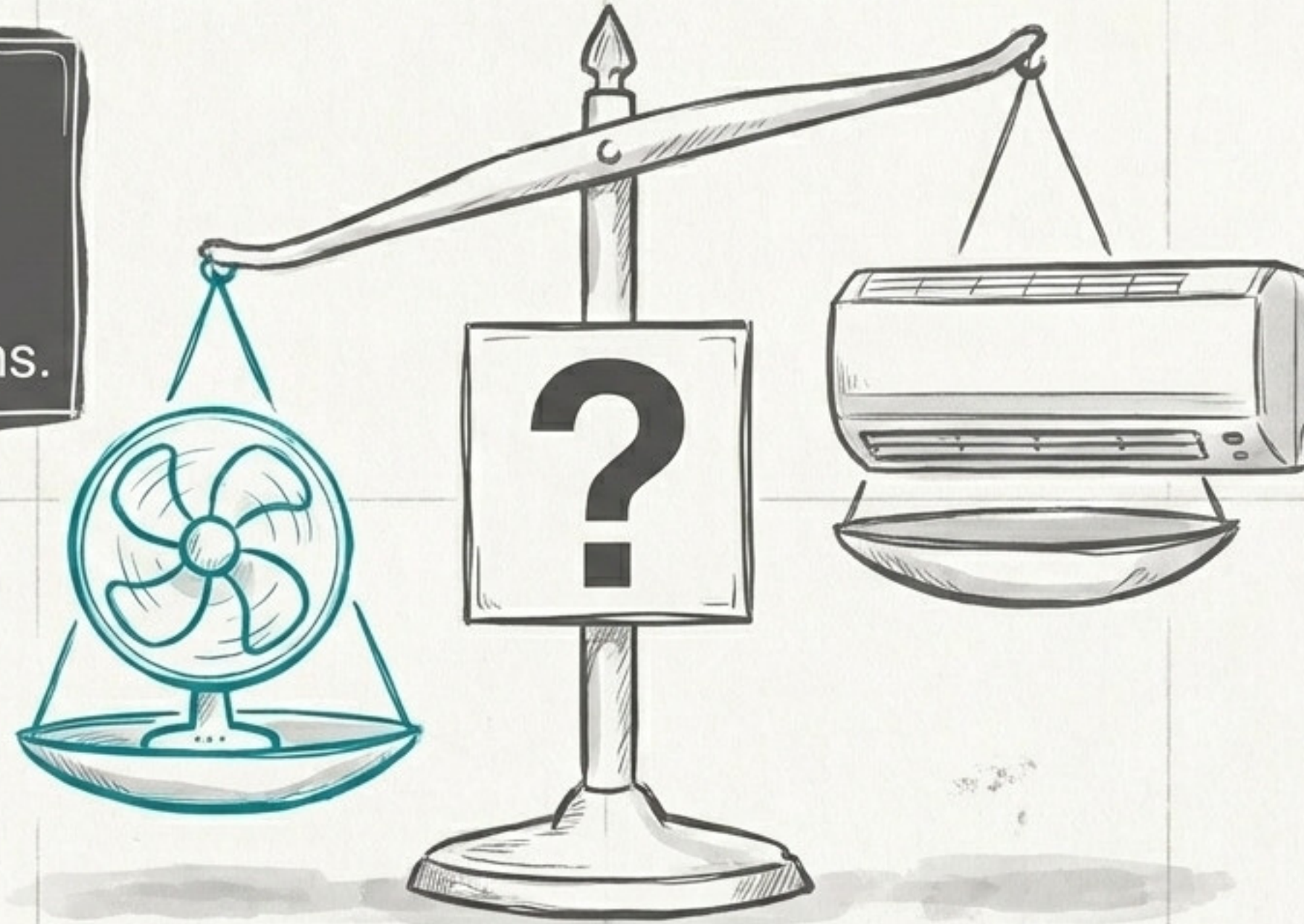
COURT'S LOGIC

- Cached internet history from a search engine does not equal active commercial intent.
- Verdict (Gold text): Zero actual sales or marketing activity occurred within the critical 3-year grace period.

EVIDENCE ITEM 3: THE SIMILARITY OF GOODS DEFENSE

The Claim:

We hold active sales records, ads, and import docs for CLAIRE circulator fans.

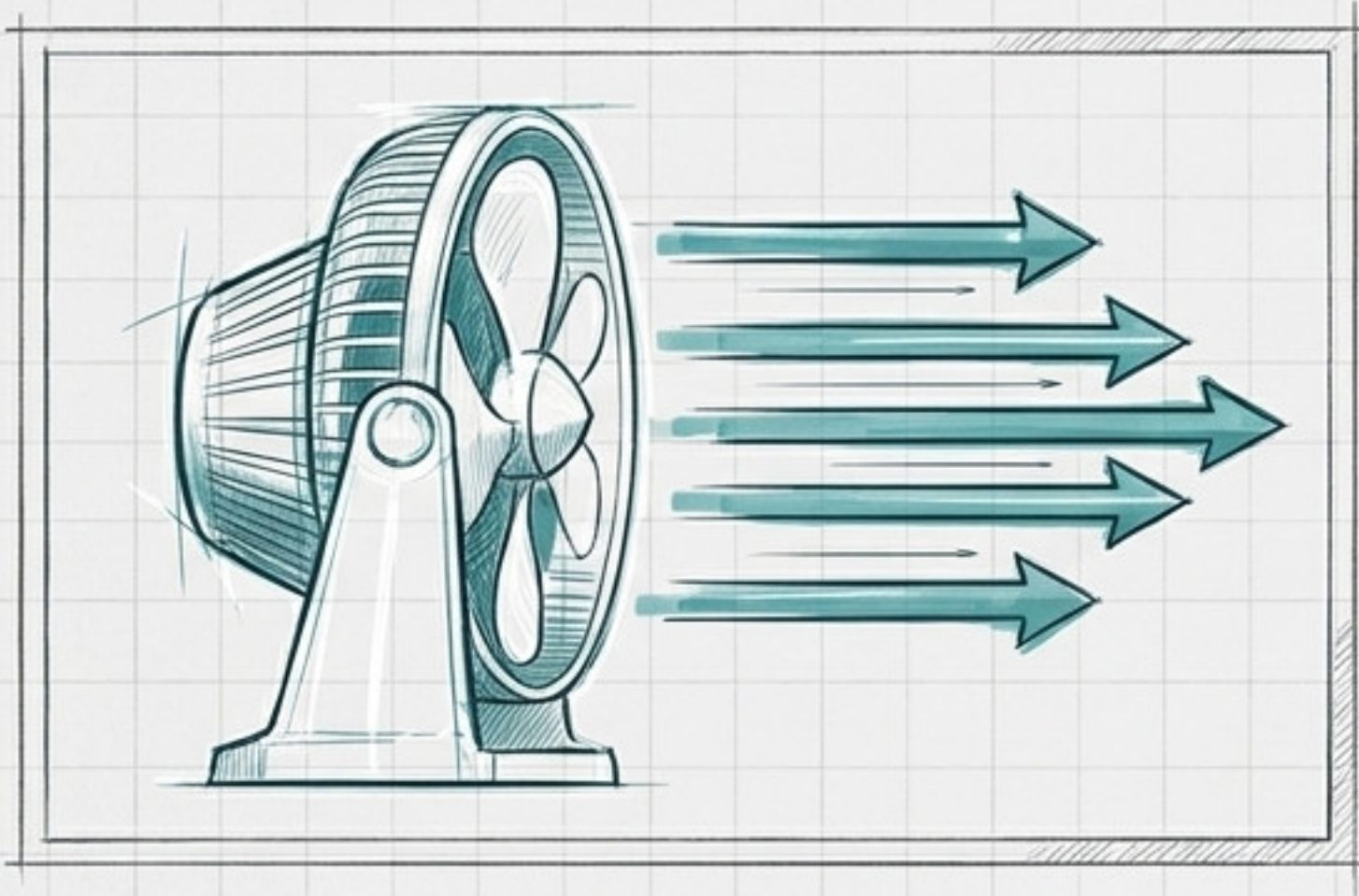


THE FUNCTIONAL ARGUMENT

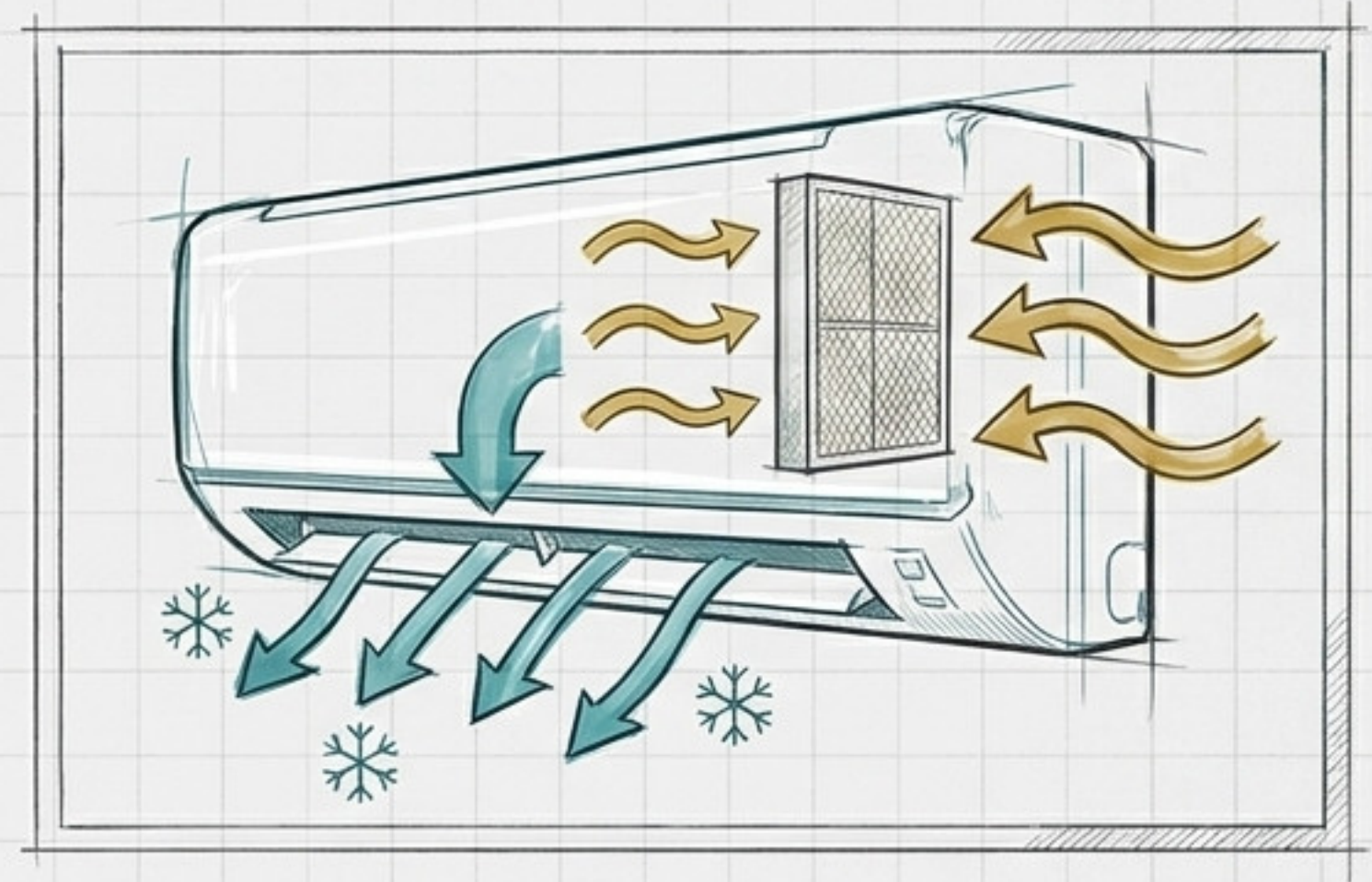
Circulator fans help regulate temperature. Therefore, they are legally equivalent to air conditioners (Class 11), satisfying the usage requirement for the entire category.

THE EXPERT WITNESS

Testimony from National Yunlin University of Science and Technology (Mechanical Engineering Dept.)

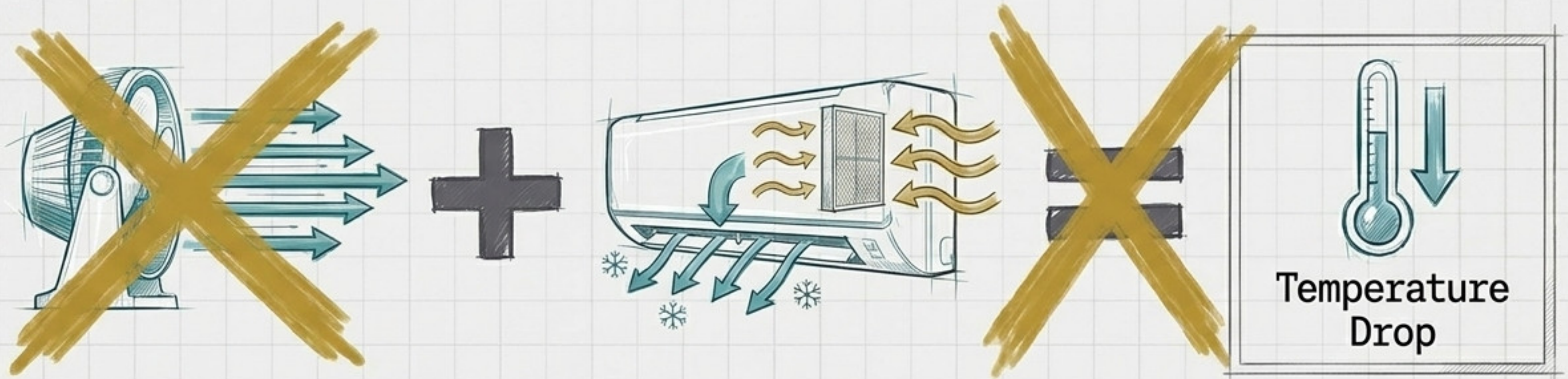


Moves Air
Modifies wind speed and
direction only.



Regulates Air
Changes actual temperature
and humidity.

COURT'S RULING: ASSISTANCE IS NOT SUBSTITUTION



- A circulator fan can only assist an air conditioner by distributing cold air faster.
- It lacks the independent mechanical ability to alter temperature or humidity.

**Verdict: Fans and Air Conditioners are mechanically distinct.
Selling fans is NOT evidence of using the trademark for Air Conditioners.**

SYNTHESIS MATRIX: ANATOMY OF THE JUDGMENT

Plaintiff's Evidence	Claimed Use	Court's Verdict
Repair Invoices on Discontinued Units	Ongoing commercial presence	REJECTED (Fulfills past obligation, lacks future marketing purpose).
Cached "Sold Out" PCHOME Listings	Active public digital marketing	REJECTED (Historical archive only, zero activity within 3 years).
Sales of Circulator Fans	Functional equivalent to ACs	REJECTED (Mechanically distinct primary functions).

FINAL IMPLICATIONS & KEY TAKEAWAYS



1. 'PURPOSE OF MARKETING' IS STRICTLY FORWARD-LOOKING

After-sales service or repairing dead stock does not reset the 3-year clock. Trademark use must aim to stimulate current or future sales.



2. DIGITAL FOOTPRINTS ≠ DIGITAL EVIDENCE

Passive historical archives, cached pages, or “out of stock” listings fail the active use test. Evidence must prove commerce within the strict 3-year statutory window.



3. FUNCTIONAL DISTINCTIONS ARE ABSOLUTE

Related goods are evaluated on their independent mechanical reality, not marketing synergy. Accessories (fans) cannot legally substitute for the primary machine (ACs).