

CONFIDENTIAL
CASE FILE

CASE NO. 39

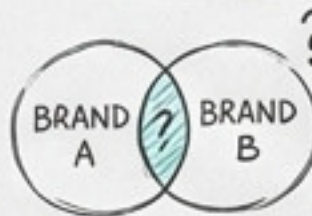
The Anatomy of a Trademark Dispute

A Visual Dissection of Intellectual Property & Commercial
Court Judgment: 2022 Xing-Shang-Su-Zhi No. 39
(Date: February 3, 2023)

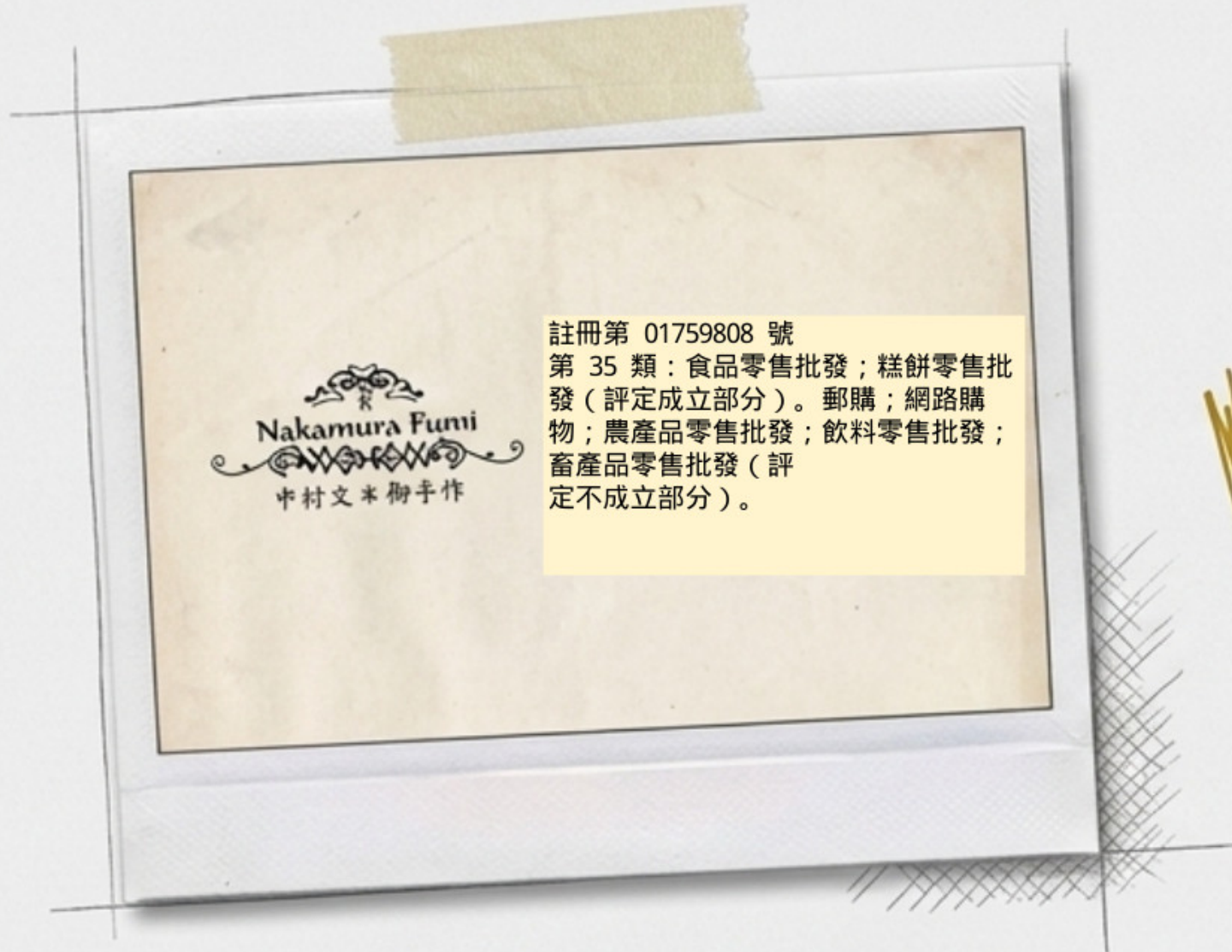
KEY RULING

TIMELINE REFERENCE

Context: Trademark Act, Article 30, Paragraph 1,
Subparagraph 10: Likelihood of Confusion



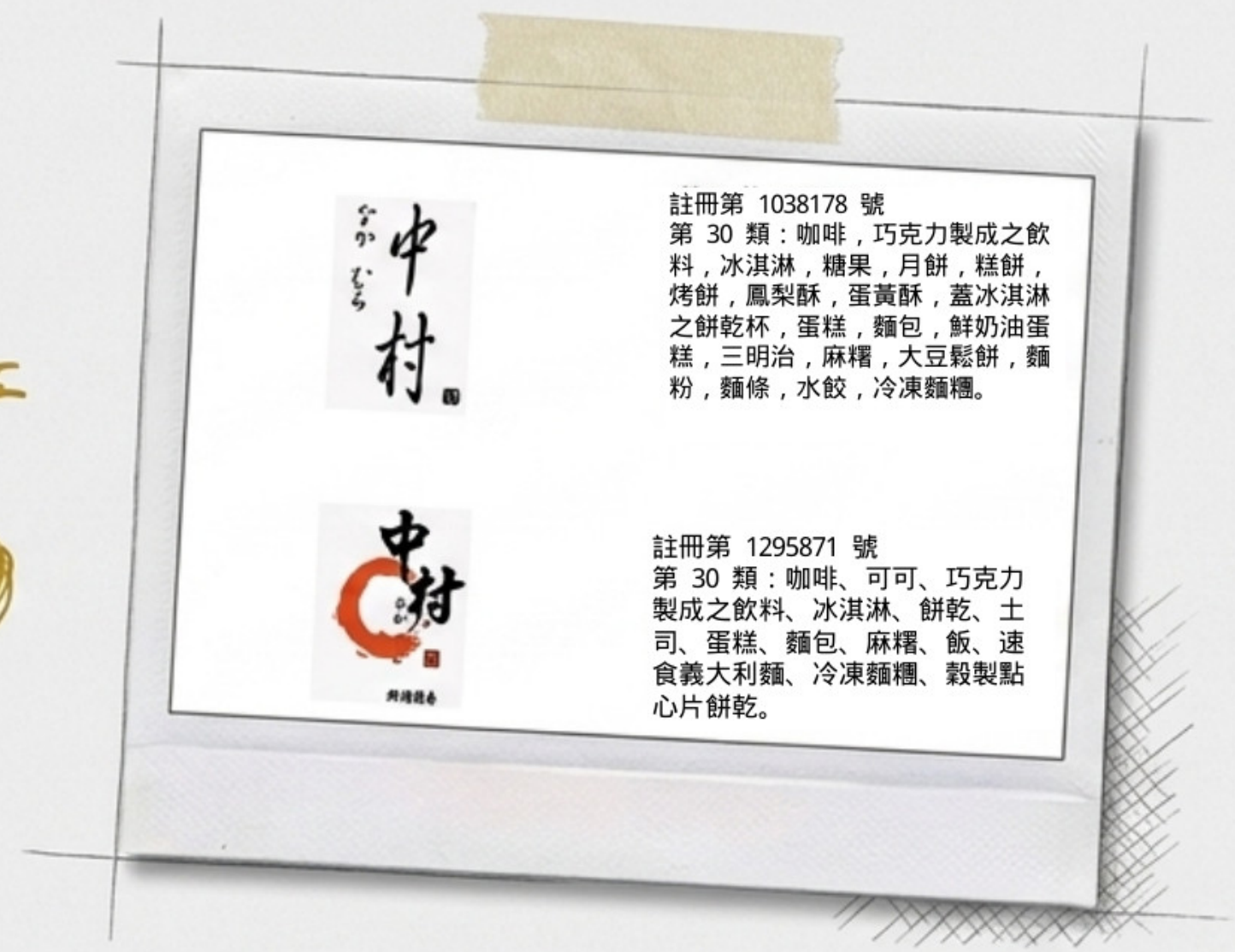
THE PLAINTIFF (Contested Trademark)



- Registration No.: 01759808
- Mark: Nakamura Fumi
- Class 35: Retail/Wholesale of Food & Pastries

VS

THE INTERVENOR (Cited Trademarks)

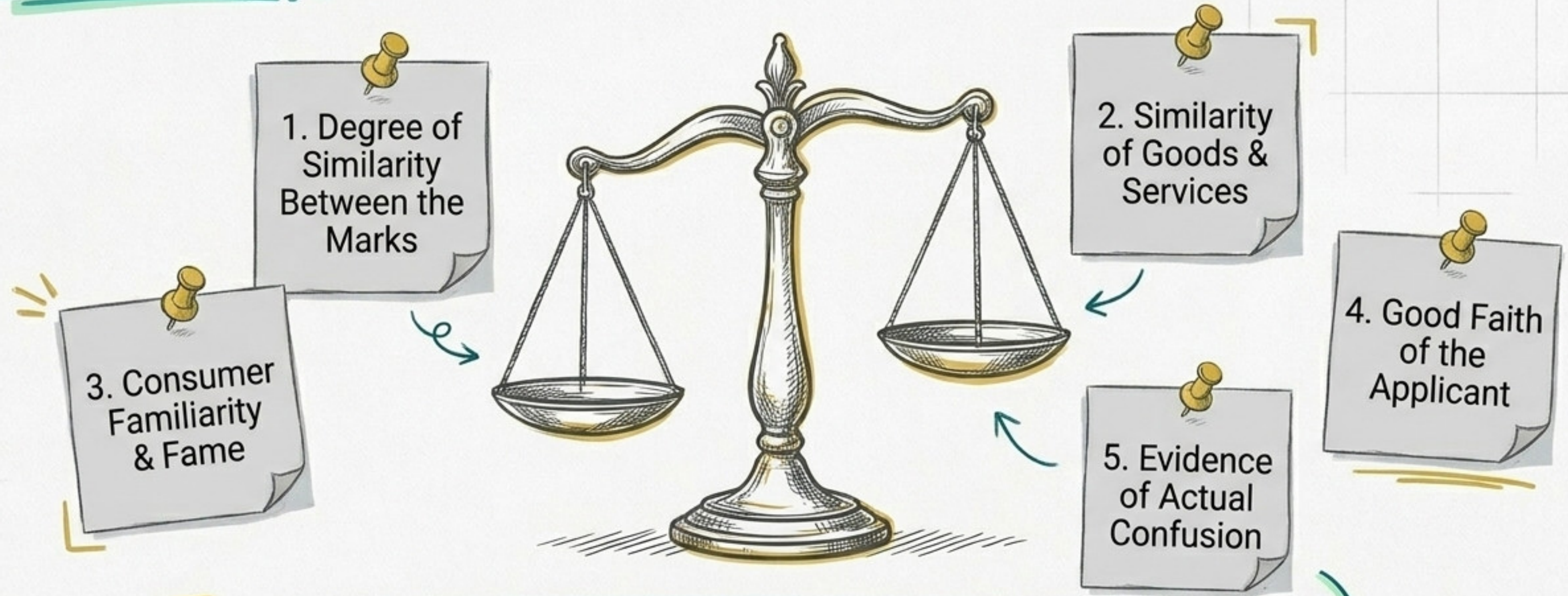


- Registration Nos.: 1038178, 1295871, 1284258
- Mark: Nakamura
- Classes 30 & 35: Cakes, Bread, Toast Retail

Procedural History of the Conflict

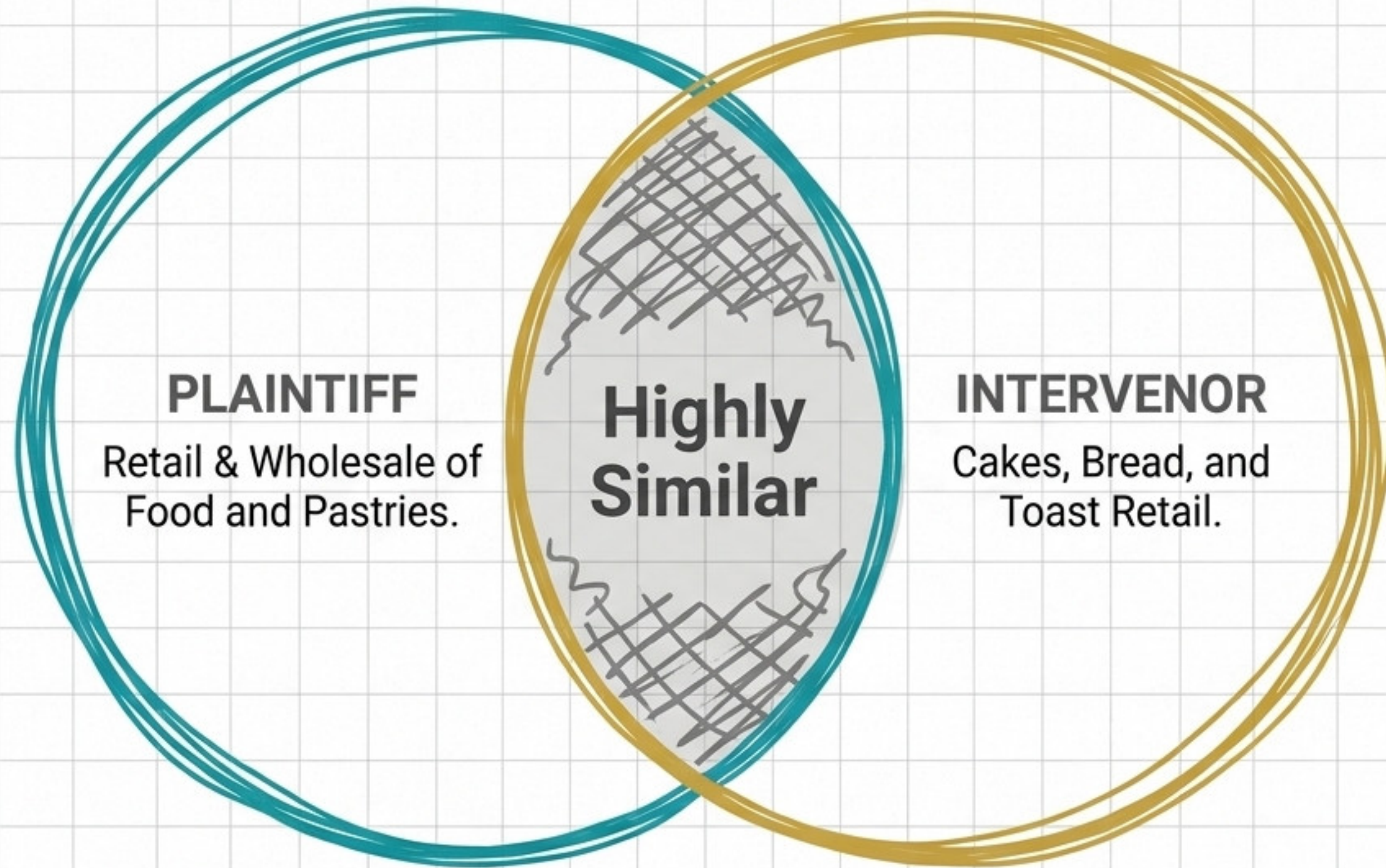


Evaluating Likelihood of Confusion



The IP Court's reversal in this case relies heavily on correcting TIPO's analytical error regarding Factor 1.

Factor 2: Market Overlap (Goods & Services)



The court affirms that both parties operate within the baked goods sector. They share identical target demographics, marketing channels, and commercial nature.

The Flaw in the Original Cancellation

Why did TIPO initially cancel the trademark?

- TIPO focused solely on the phonetic and conceptual similarities of the single word Nakamura.
- By isolating the text, TIPO concluded the marks were highly similar.



This approach violates the Principle of Overall Observation. Trademarks must be evaluated based on the holistic visual impression they leave on consumers, not by dissecting them into isolated fragments.

Visual Autopsy: The Plaintiff's Mark



A dominant floral/totem design creates the primary visual anchor of the mark.

The horizontal English text (Nakamura Fumi) is visually embedded into the graphic.

The specific disputed text (Nakamura) occupies less than 1/8 of the total trademark area. It is not the most prominent feature.

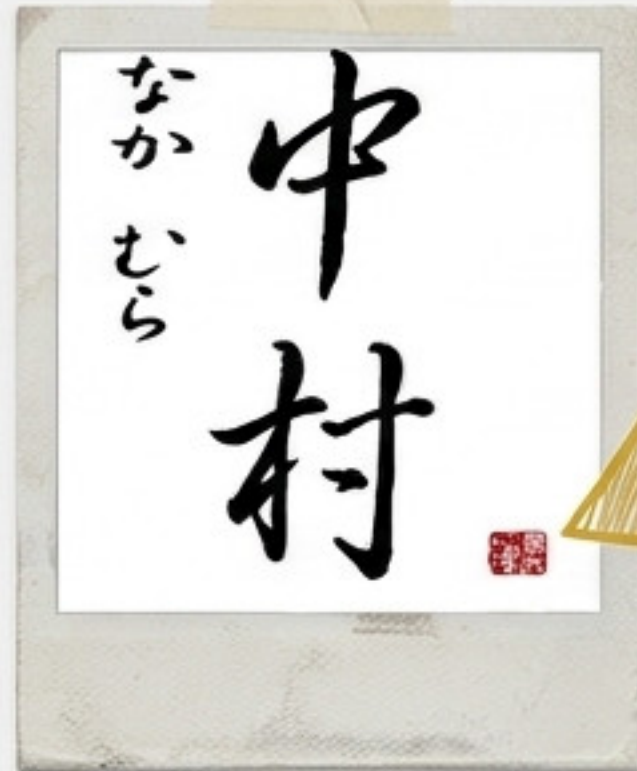
Court Finding: A cohesive, horizontally oriented, heavily illustrated design.

Visual Autopsy: The Intervenor's Marks



Highly vertical orientation dominated by large, bold calligraphy.

Distinctive red circle graphic serving as a background anchor.



Inclusion of traditional, block-style seal stamps.

Court Finding: A traditional, vertically oriented, calligraphy-driven aesthetic.

The Verdict on Visual Similarity



“When viewed in their entirety, the structural layout, artistic intent, and overall visual impressions of the two marks are fundamentally distinct.”

Therefore, the possibility of consumer confusion based on visual similarity is **LOW.**

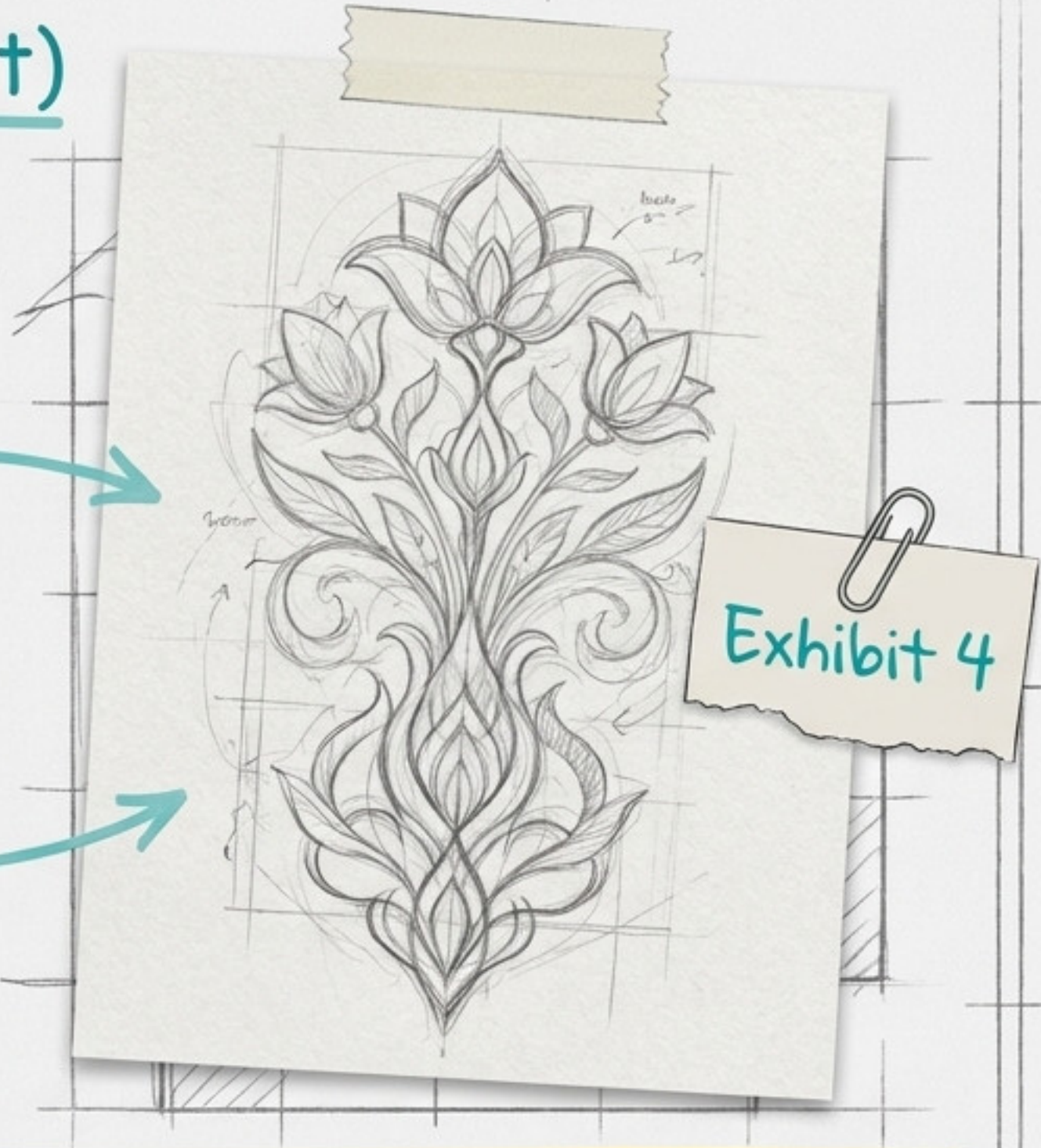
Factor 4: Establishing Good Faith (Intent)

Did the Plaintiff intentionally copy the Intervenor to steal brand recognition?

The Evidence: The Plaintiff submitted original design sketches (**Exhibit 4**) to the court, proving an independent creative process.

The Inspiration: The design was explicitly rooted in **Taisho Romanticism** — a specific Japanese historical design aesthetic blending traditional and Western motifs.

Court's Finding: Application was made in good faith. There was no malicious intent to cause market confusion.



Factors 3 & 5: Market Realities & Evidence

Consumer Familiarity (Fame)

Claim: The cited mark was overwhelmingly famous.



Verdict: Insufficient evidence. Neither brand overshadowed the other when the contested mark was registered.

Actual Confusion

The Coexistence Test: The marks coexisted in the market for 4 years (2016-2020).

Intervenor's Claim: Consumers asked, *Did you open a branch?*



Verdict: Hearsay. Zero concrete evidence of actual consumer confusion was submitted to the court.

The Final Judgment



The original TIPO decisions revoking the registration of Trademark No. 01759808 (Nakamura Fumi) for food and pastry retail services are REVOKED.

- Likelihood of Confusion: NOT established.
- Registration 01759808 remains valid.
- Litigation costs are to be borne by the Defendant (TIPO).



Strategic Insights for Brands & IP Professionals

1

Holistic Design Matters

A trademark is judged by its overall impression. Integrating text deeply into a distinctive visual framework can protect against infringement claims—even if a single word overlaps with a competitor.

2

Document Your Creative Process

The court relied heavily on the designer's original sketches to prove good faith. Always archive design briefs, mood boards, and early drafts as legal insurance.

3

Evidence Trumps Anecdotes

Claiming our customers were confused is useless in court without documentation. Furthermore, prolonged market coexistence without proven confusion actively destroys an invalidation claim.