



The Unbroken Baton: Implied Authorization in Trademark Law

Anatomy of a Prior Use Dispute

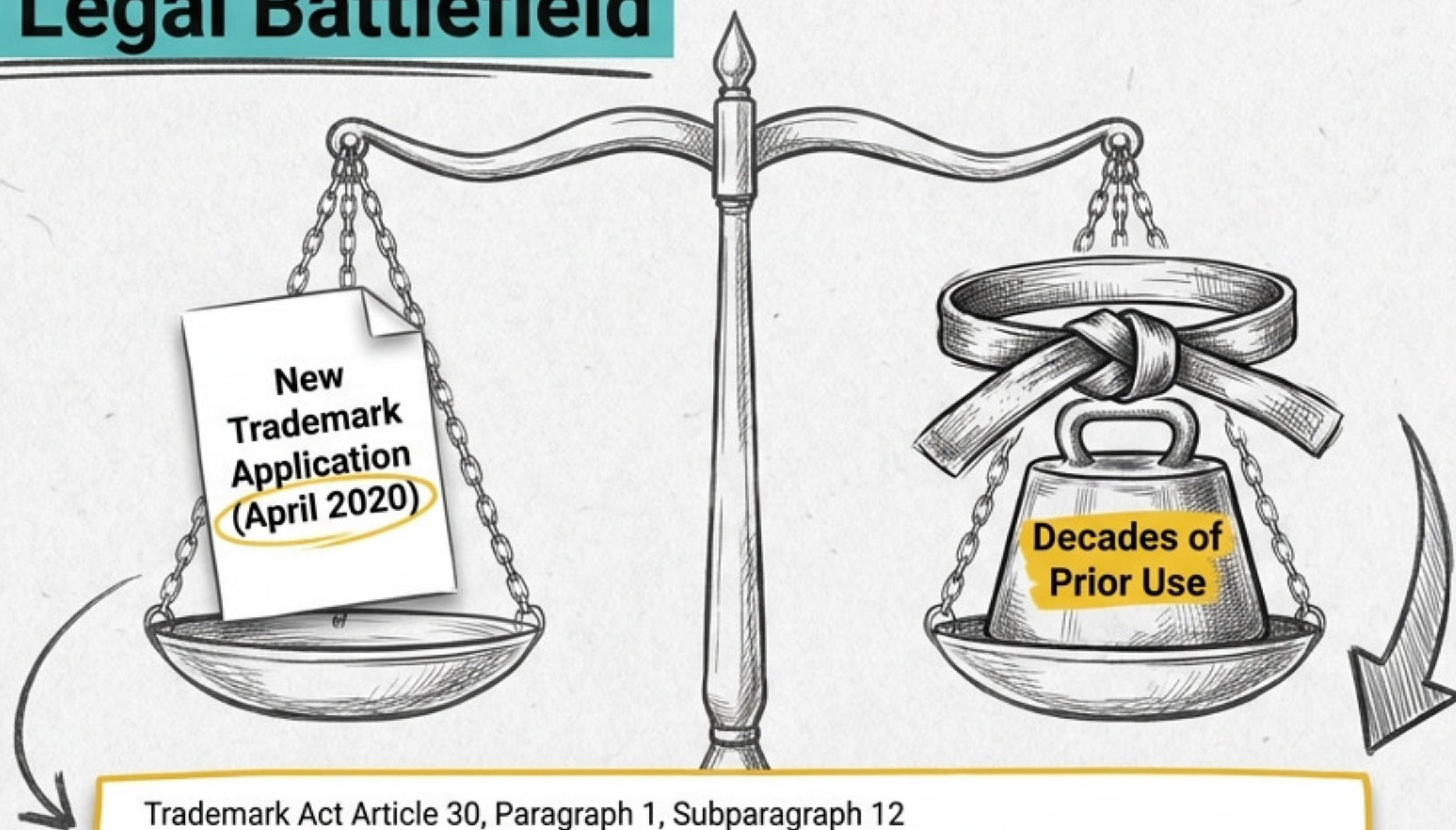
忠誠跆拳道



Registration No.
02096321
vs. 40 Years
of History

Source: Taiwan Intellectual Property
and Commercial Court, Case No.
111-Hsing-Shang-Su-57 (June 2022).

The Core Legal Battlefield

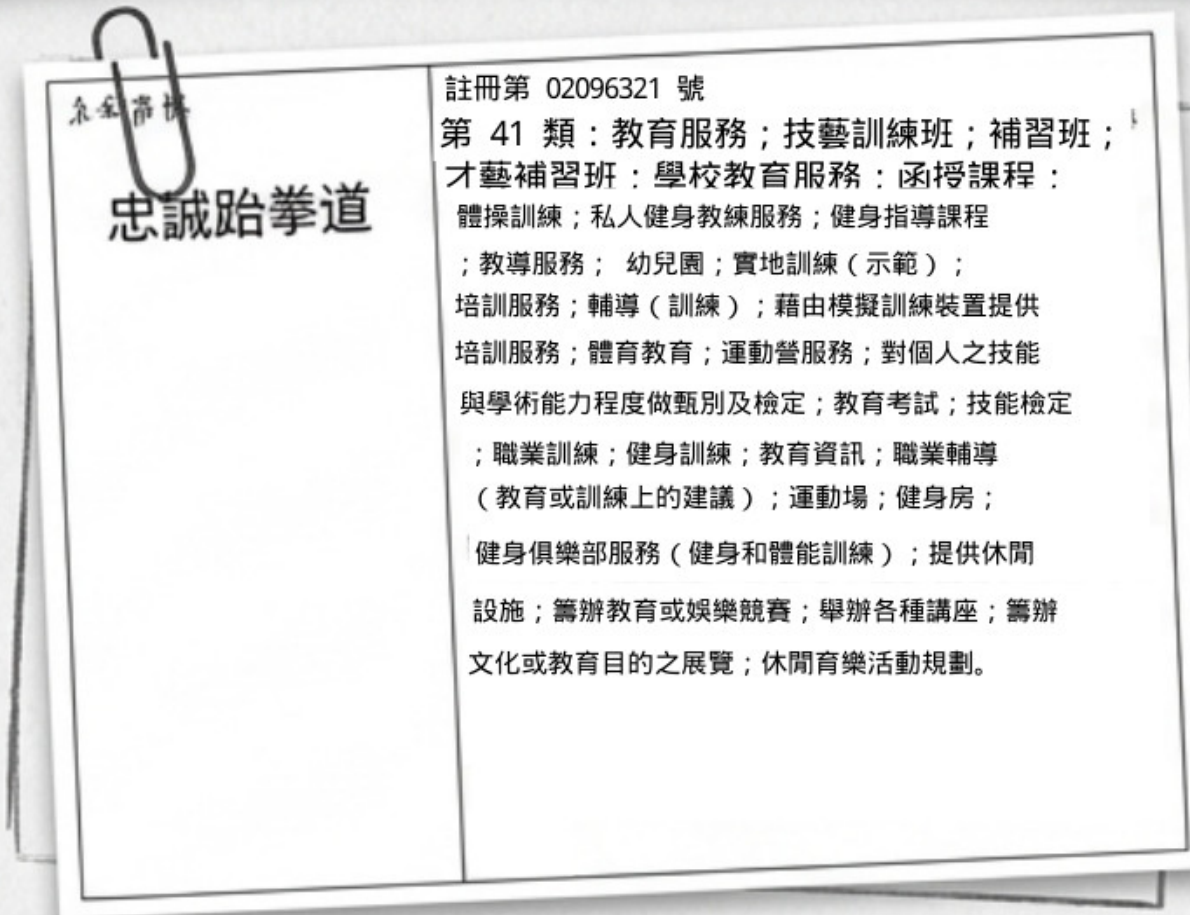


Trademark Act Article 30, Paragraph 1, Subparagraph 12

Does a new registration override an unregistered, previously used trademark if the original founder never charged a franchise fee?

The New Registrant

- Applied for the trademark on **April 9, 2020**
- Class 41 Services (Martial arts instruction, fitness gyms)



Stance: Claims the original founder abandoned the mark and subsequent use was independent.

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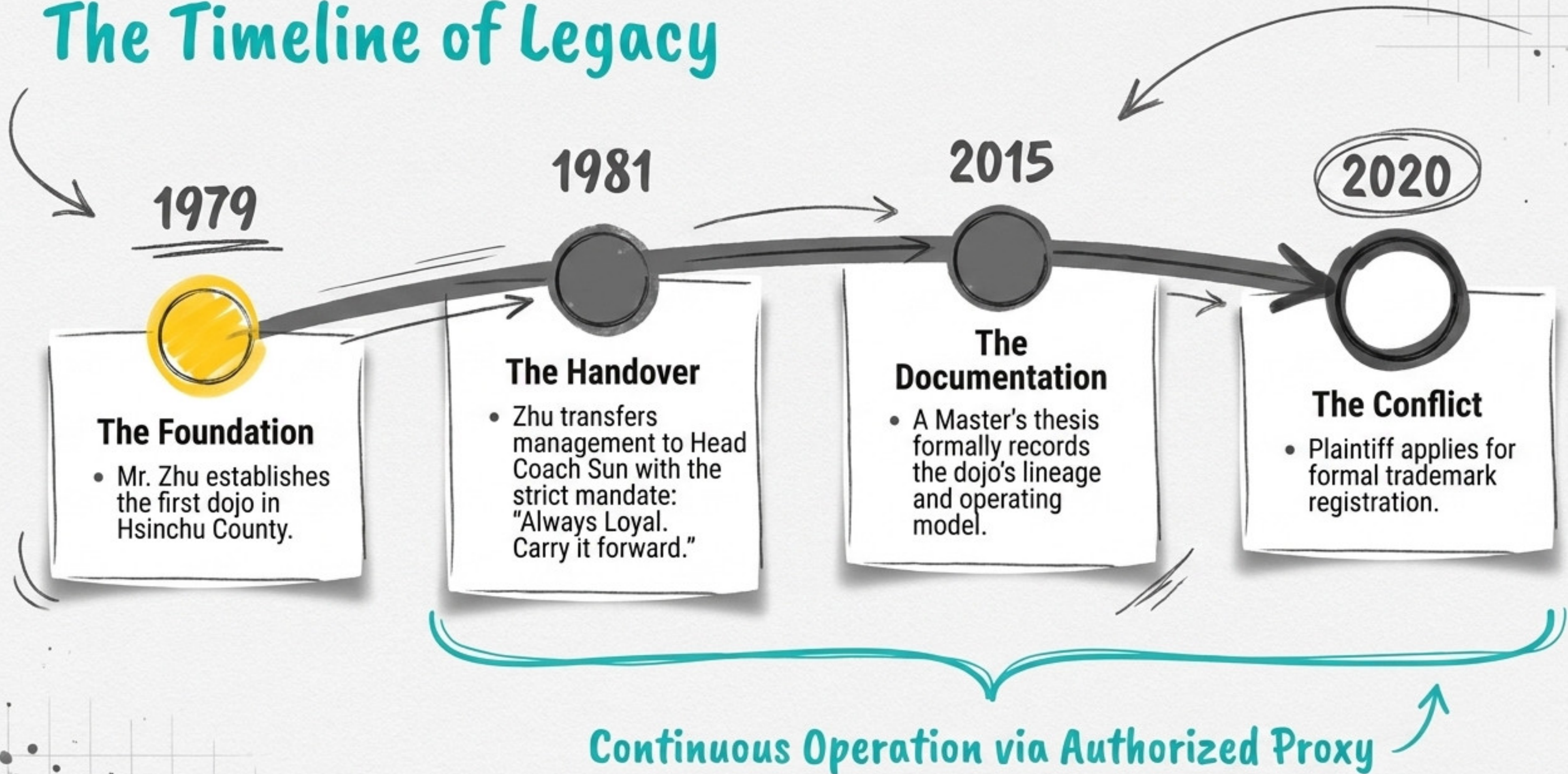
The Original Founder (Mr. Zhu)

- Founded the first dojo in Hsinchu County in **1979**
- Maintained continuous **"Prior Use"**



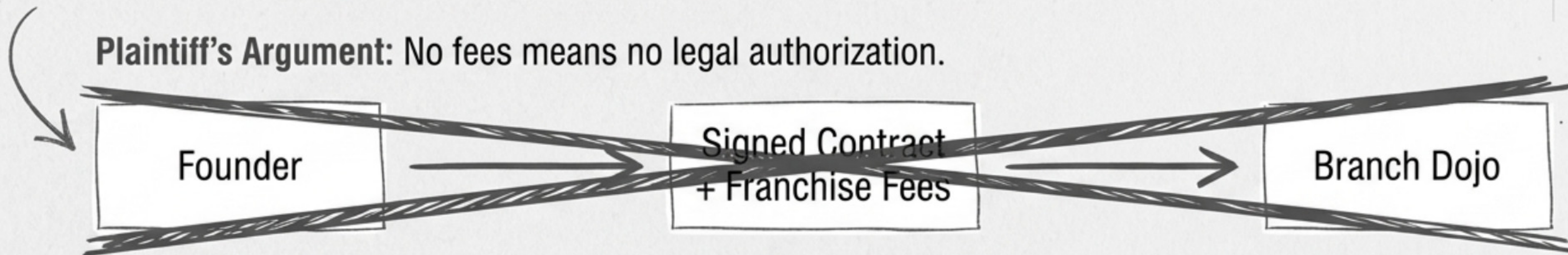
Stance: Claims continuous **'Prior Use'** through an unbroken chain of authorization to his successors.

The Timeline of Legacy



Redefining Authorization

Plaintiff's Argument: No fees means no legal authorization.

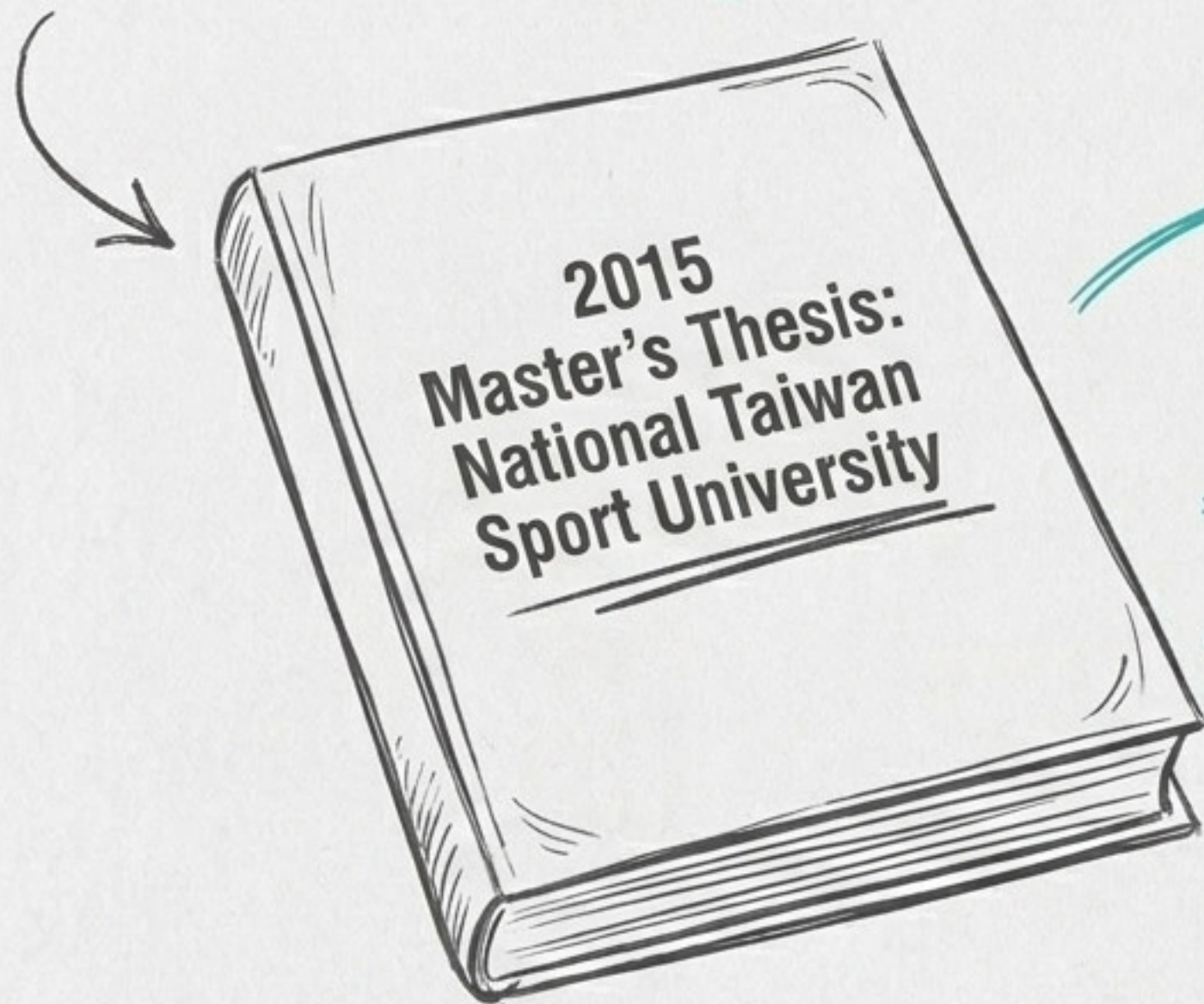


Court's Logic: A mandate to expand the legacy constitutes valid trademark authorization.



Financial compensation is NOT a prerequisite for trademark authorization. A verbal commitment to uphold a founder's legacy maintains the unbroken chain of 'Prior Use'.

The Smoking Gun: Exhibit A



Methodology:

Direct audio interviews with 8 key figures, including Founder Zhu and Coach Sun.

Finding:

Coach Sun allowed students to open branches using the name for free, strictly to promote the founder's vision.

Verification:

Transcripts reviewed and verified by subjects prior to publication.

Court's Conclusion: Academic research based on verifiable, cross-referenced interviews is objective evidence, not merely the author's subjective opinion.

The Cross-Examination



Plaintiff's Attack	The Court's Refutation
The 2015 Thesis lacks verbatim transcripts; it is just the author's subjective opinion.	The thesis followed rigorous academic methodology, including field observation and verified interviews. Verbatim transcripts are not strictly required to prove objective truth.
Coach Sun acted as an independent franchise owner, making his own decisions for personal benefit.	Coach Sun's policy of allowing free use of the name was driven by the Founder's original mandate to "carry it forward," not independent entrepreneurial profit. Sun acted as a proxy.

The Final Verdict & Key Takeaways

1. The Definition of Authorization

Trademark authorization does not require formal franchise fees or written royalty contracts. Oral succession and a mandate to “carry the legacy forward” constitute valid authorization.

2. The Proxy Principle in Prior Use

As long as a successor uses the mark based on the original founder’s philosophy and permission, their usage legally counts as the founder’s continuous “Prior Use”.

3. The Power of Unconventional Evidence

Academic research (like a Master’s Thesis) can serve as decisive legal evidence of “Prior Use” if the research methodology (interviews, verifications) is demonstrably objective.

**Prior Use Rights Upheld.
Registration Revoked.**