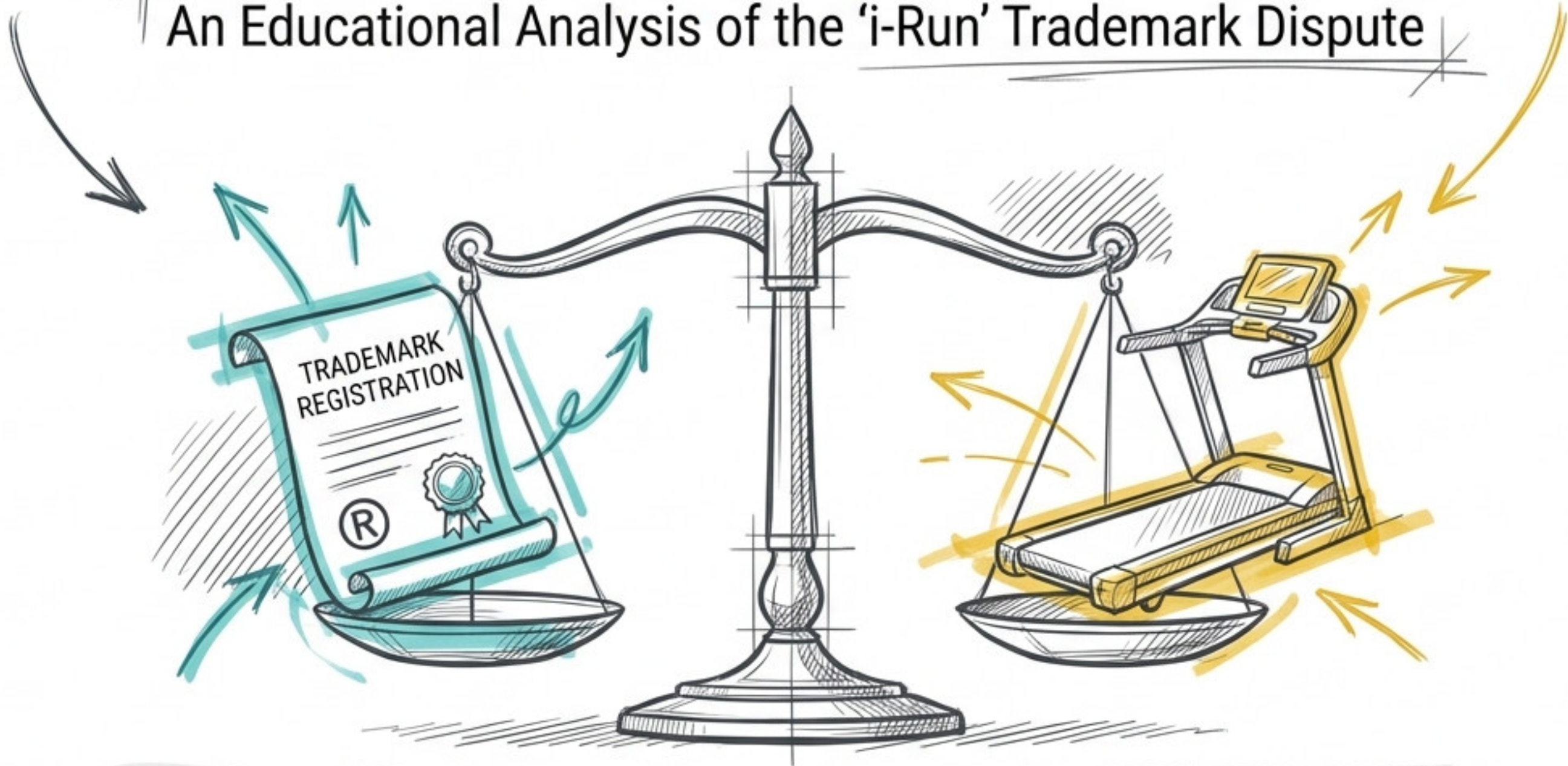


The Boundary of Trademark Infringement: Using vs. Selling

An Educational Analysis of the 'i-Run' Trademark Dispute



Source: Intellectual Property and Commercial Court 111 Xing Zhi Shang Yi
No. 22 Criminal Judgment (Date: 113080202)

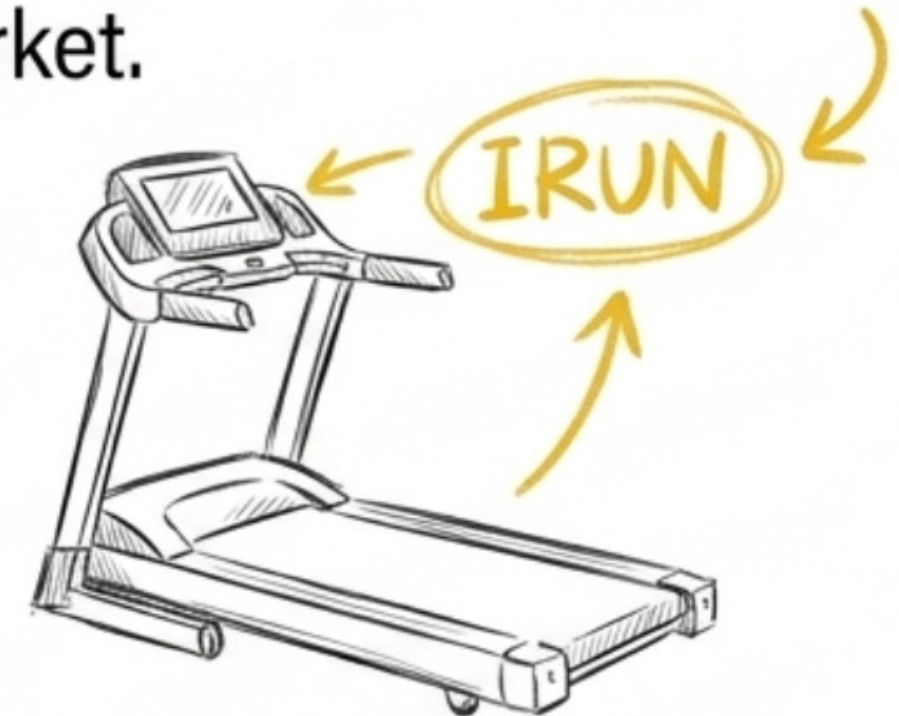
Private Prosecutor

Chitai Health Technology Co., Ltd.
Holds Trademark Reg. No. 01505441
(Class 28: treadmills)



Appellant

Shi X-Sheng (Responsible Person
of Huei Yeh Enterprise Co., Ltd.)
Sold treadmills bearing "IRUN" in
the market.

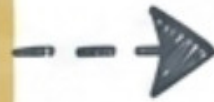


**Core Question: Is the Appellant guilty of
Using or Selling the infringing mark?**



Step 1: Action

Appellant commissions Zhejiang A-Lu-Ke Fitness Equipment Co. in China to manufacture treadmills (Aug - Oct 2020).



第 28 類：跑步健身機、遊戲器具、玩具、

Step 2: Infringement

'IRUN' printed on the treadmill display panels.



Step 3: Distribution

Goods listed on PChome online shopping platform.



Step 4: Discovery

Private Prosecutor purchases a 'GTSTAR' treadmill on Sept 28, 2020, as evidence.

The Original Judgment
(Taipei District Court)

Offense of Selling Goods
Infringing Trademark Rights

Trademark Act Article 97

The Key Difference:
Did the Appellant
have actual decision-
making power during
the manufacturing
process?

The Appeal Question
The Appeal Question

Offense of Infringement
of Trademark Rights

Trademark Act Article 95(3)



Evidence A:
Appellant admitted meeting with Chinese factory heads before importing, knowing the panels had "IRUN".

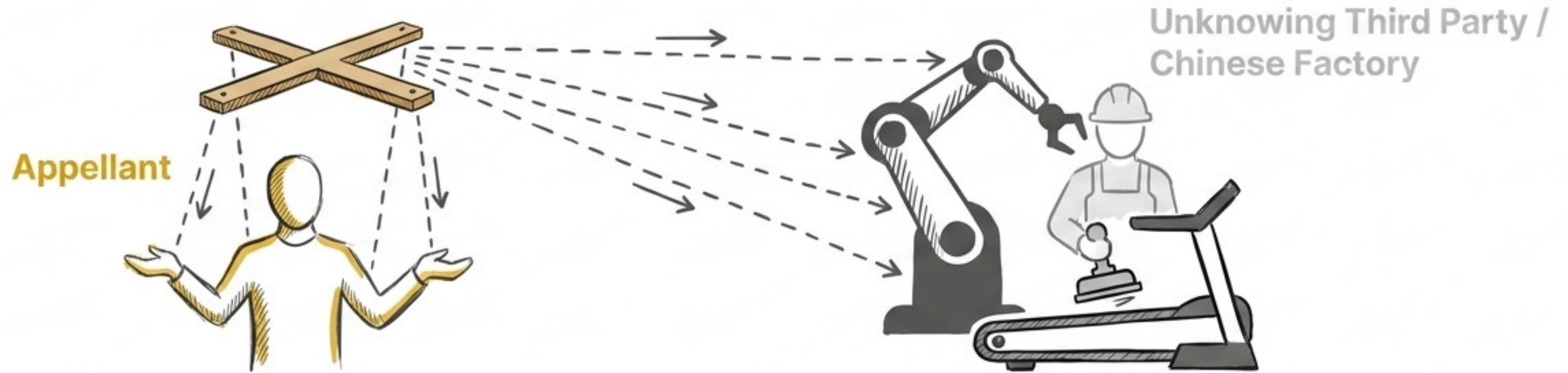
Evidence B: Business Manager's testimony states import volume, costs, and specs were directly handled by the Appellant.

Evidence C:
Chinese employee declarations state that after receiving a legal notice, the Appellant explicitly ordered the logo change from "IRUN" to "WALKING RUNNING".

CONCLUSION:
Evidence shows the Appellant held actual decision-making power and was not merely a downstream retailer.

Legal Concept Explanation

Indirect Principal

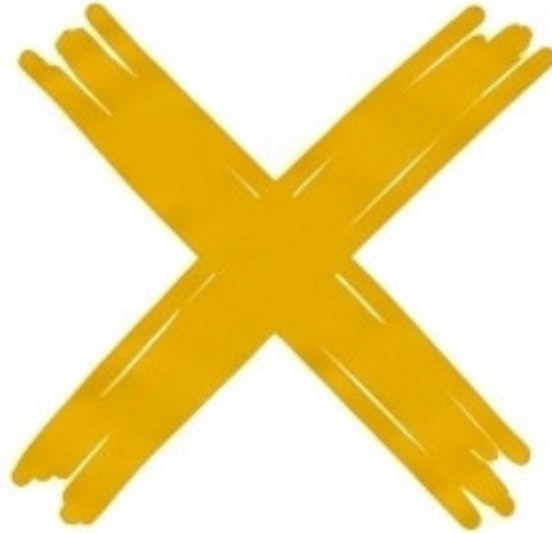


The Appellant utilized an unknowing Chinese manufacturer with no criminal intent to print the infringing mark. Even without physically operating the machinery, legally, this act is equivalent to directly committing the crime.



This constitutes illegal Use, not merely Selling.

Statutory Exclusivity Matrix

Trademark Act Article 95 (Use)	Trademark Act Article 97 (Sell)
Condition: Covers the entire process of marketing, manufacturing, and illegally using a trademark.  Applies to Appellant (Based on Indirect Principal status)	Condition: Explicitly requires knowing the goods were made by “another person”. Only applies to pure downstream selling entities.  Does Not Apply (The illegal user is the Appellant themselves, not ‘another person’).

Legal Rule: If the action constitutes Trademark Act Article 95, subsequent selling acts are subsumed. There is no room to establish a separate offense under Trademark Act Article 97.

The Final Verdict



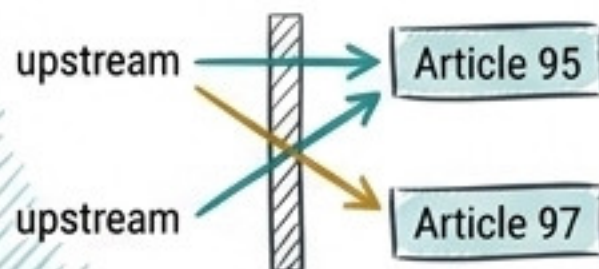
- ❑ Original Judgment Revoked.
- ❑ Appellant committed the Offense of Infringement of Trademark Rights (Under Trademark Act Article 95(3)).
- ❑ Sentencing: 5 months imprisonment (commutable to a fine of NT\$1,000 per day).
- ❑ Confiscation: 1 unseized counterfeit treadmill confiscated. Criminal proceeds of NT\$4,999 confiscated (or its value pursued if unrecoverable).

Judgment Summary & Key Takeaways



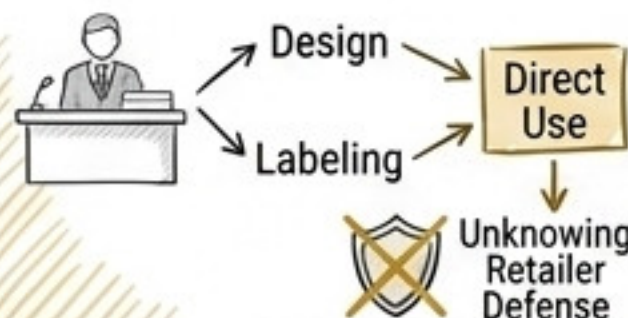
Statutory Exclusivity

Trademark Act Article 95 and Article 97 are mutually exclusive. Upstream manufacturers or users cannot be penalized solely as downstream passive sellers.



Indirect Principal

In cross-border manufacturing, holding decision-making power over design and labeling equates to direct 'Use' of the trademark. One cannot hide behind the 'unknowing retailer' defense.



Evidence is Key

Corporate hierarchies, employee testimonies, and email threads are critical court evidence used to prove actual decision-making power.

