

The “Original Single” Defense: Deciphering Trademark Infringement

An Educational Analysis of Intent and Counterfeit Goods

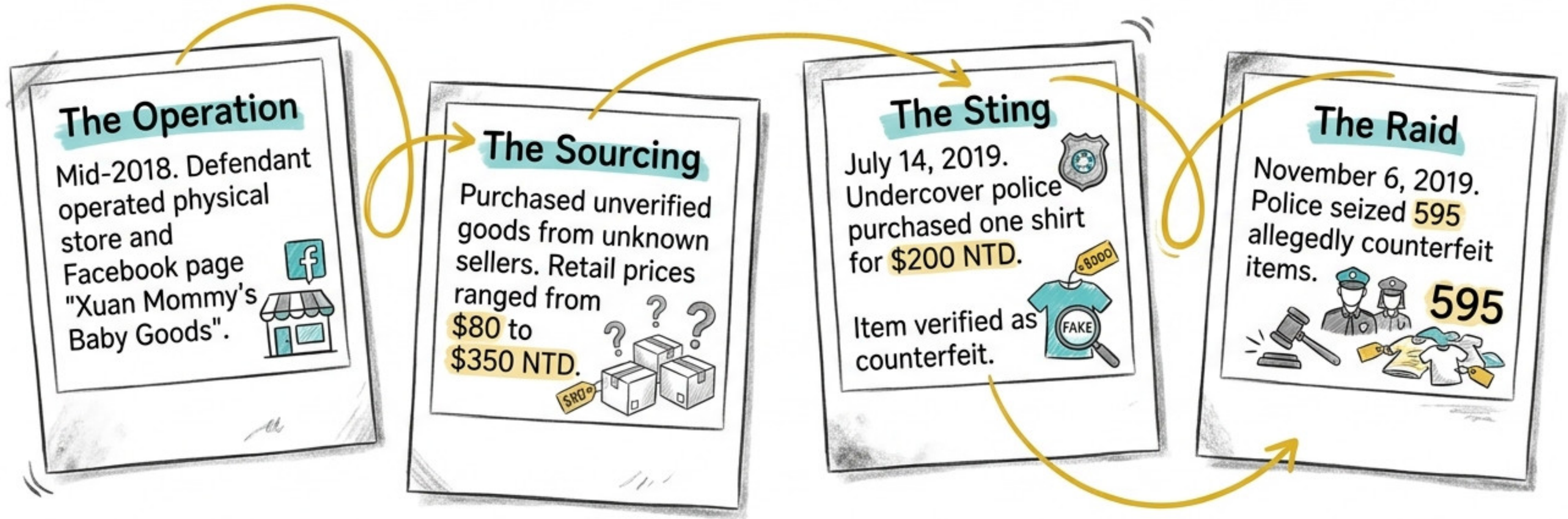


Source: Intellectual Property and
Commercial Court (IPC Court)

Citation: Criminal Judgment
111-Xing-Zhi-Shang-Yi-Zi No. 55

Reference Date: Document 112060201

The Timeline of Events



The Charge: Offense of Intent to Sell Counterfeit Trade-mark Goods (Trademark Act Article 97).

The Contested Intellectual Property

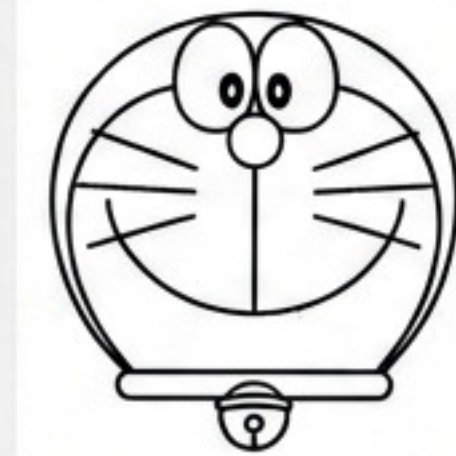
Sanrio Trademarks



Registrations: 01027329, 01007883,
01368213, 01415631, 01415637, 01953569.

*Apparel, leather straps,
tools, furniture,
bedding, soaps.*

Doraemon Trademark



Doraemon

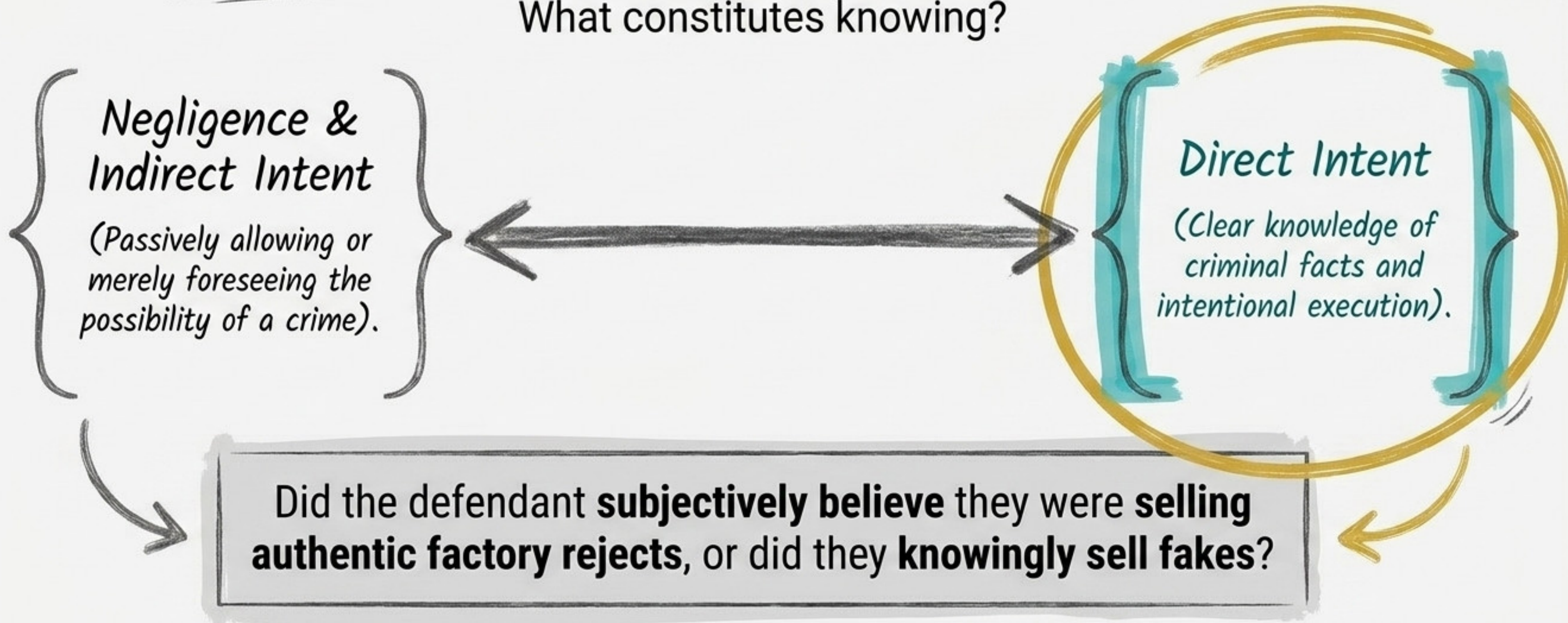
Registration: 01427281.

*Underwear, pajamas,
T-shirts, jackets,
children's wear.*

The Threshold of “Knowing” (*Mens Rea*)

Trademark Act Article 97 requires the offender to act “Knowingly.”

What constitutes knowing?



'The Courtroom Clash: Opposing Theories'



The Prosecution

- Goods sourced from unknown sellers in China.
- **Purchase and retail prices were** significantly lower than market value.

Conclusion: The extremely low price and origin prove the defendant must have known they were cheap counterfeits.

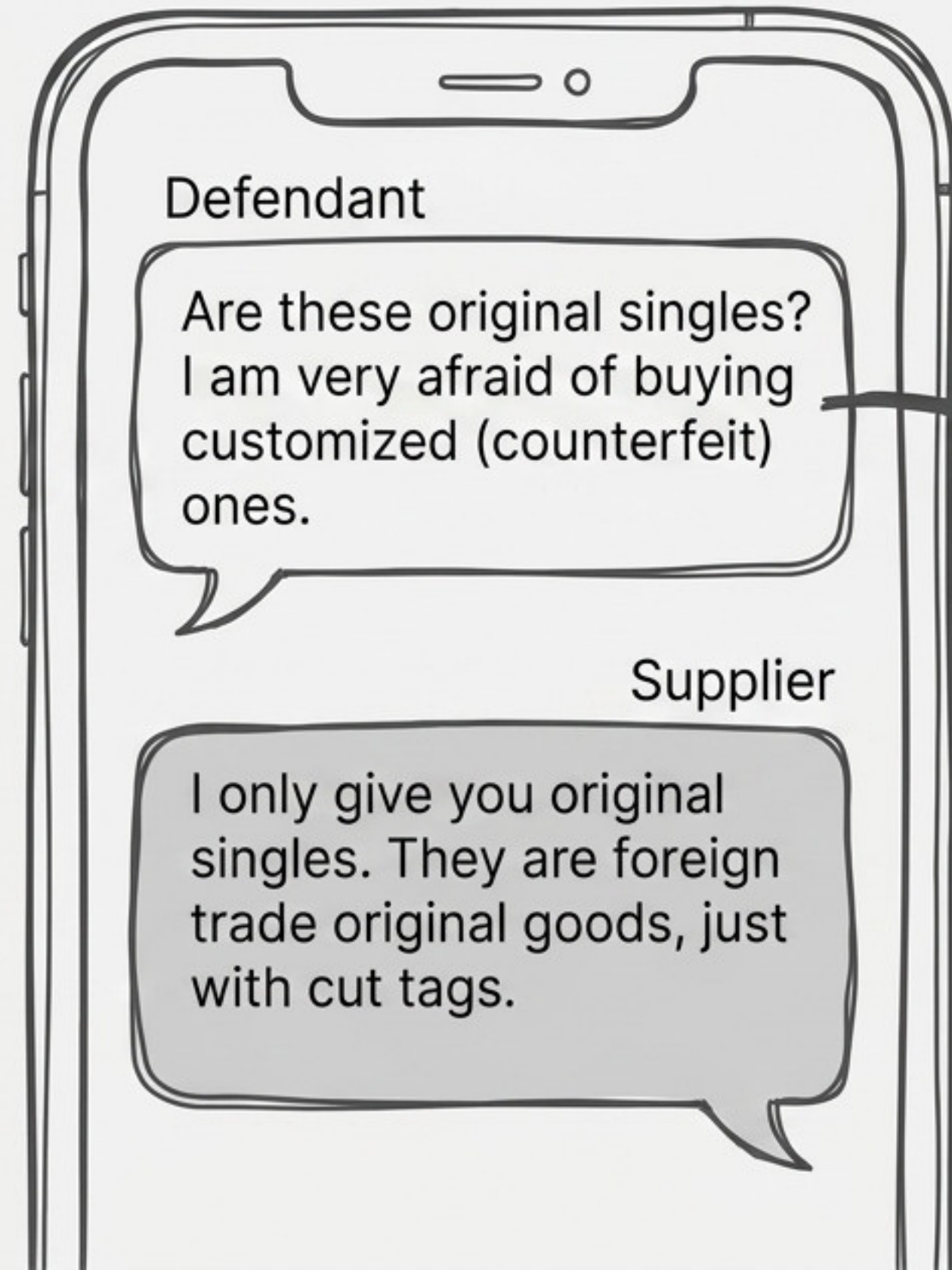


The Defense

- Sourced goods believed to be "Original Singles" – authentic items rejected by Japanese brands for minor defects.
- Purchased to clean up and resell as clearance genuine goods.

Conclusion: No direct intent to infringe; subjectively believed the goods were legally produced but flawed.

Judicial Lens 1: Sourcing Behavior & Subjective Intent

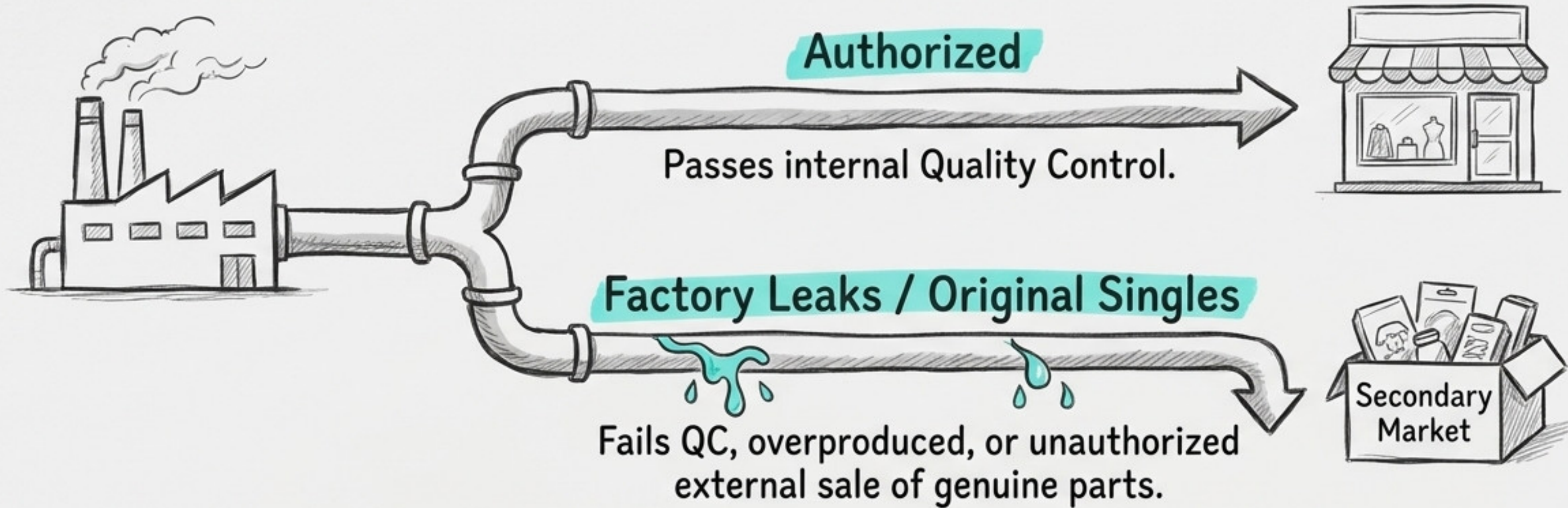


Judge's Insight

The defendant's repeated verification of authenticity and explicit fear of "customized" goods demonstrates a credible subjective belief that the items were legitimate. This negates Direct Intent.

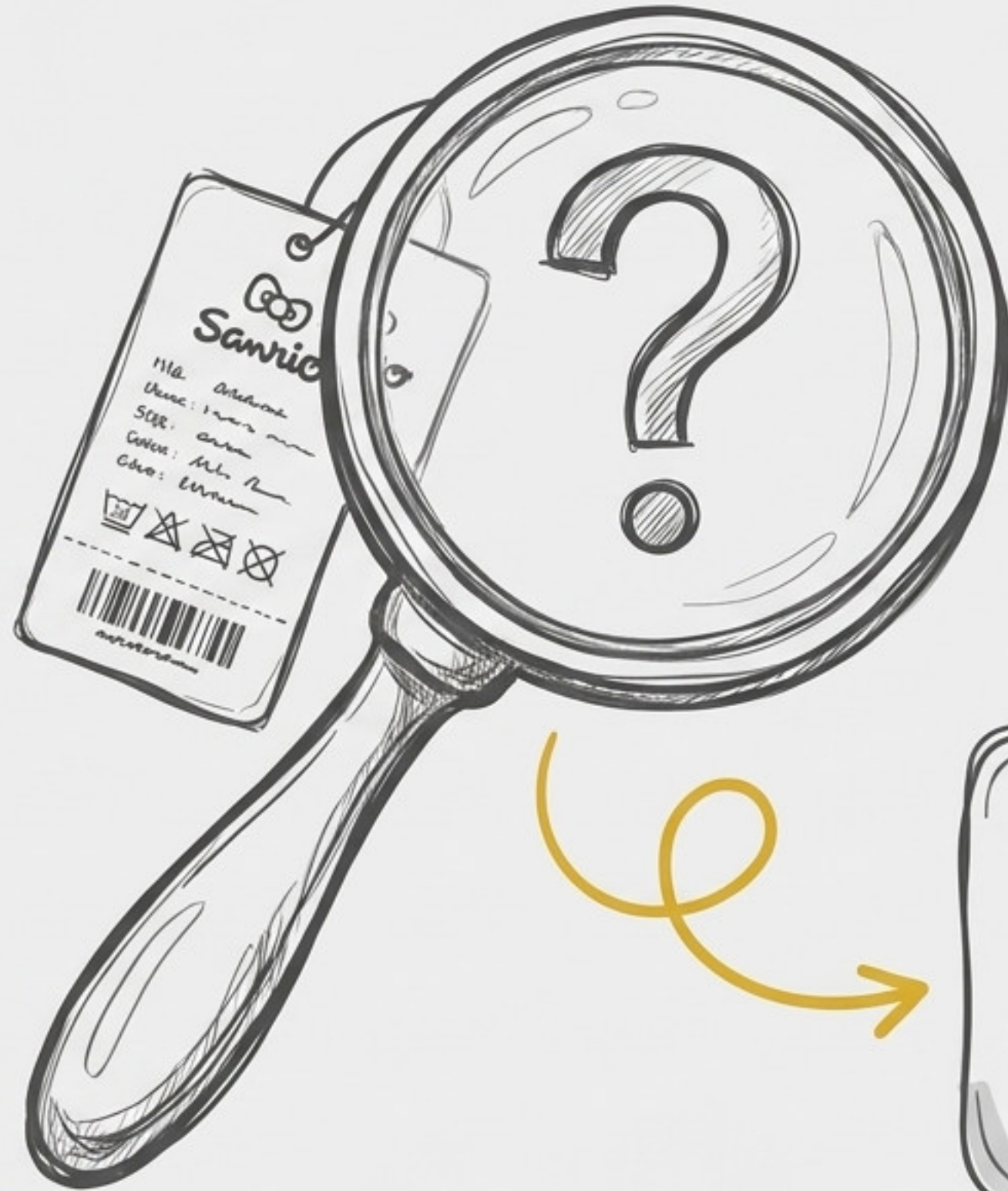
Judicial Lens 2: The Plausibility of “Original Singles”

Authenticity depends on whether the item was manufactured by the trademark owner's authorized production line.



Judge's Insight: Internal factory control is invisible to outsiders. Retailers cannot easily verify if brand owners permit the sale of defective items. Believing one is buying an “unauthorized factory overrun” is legally distinct from knowingly buying a “counterfeit.”

Judicial Lens 3: The Expert Dilemma



The Fact

Sanrio authorizes approximately 40,000 product types annually, with extensive manufacturing operations in mainland China.

The Testimony

Brand representatives themselves faced difficulties in definitive appraisal, sometimes arriving at conclusions contrary to the brand owner's ultimate findings.

Judge's Insight:

If dedicated brand appraisers struggle to definitively differentiate high-quality counterfeits from authentic goods, the court **cannot expect a layman retailer** without professional appraisal experience to easily spot the difference.

Judicial Lens 4: Market Pricing Realities



The Defense Evidence

Photos taken in Japan (Dec 2022) showing authentic merchandise sold in discounted clearance bargain bins.

Market Economics

- ✓ Clearance goods (out-of-season, overstock, defective) naturally sell at steep discounts.
- ✓ Purchasing these goods in bundled bulk further drives down the per-unit cost.

Judge's Insight: **Sourcing cheaply from China**—where tens of thousands of authorized products are manufactured—aligns with **normal commercial realities** for clearance items.

Low price alone is insufficient to prove criminal intent.

Not a "Red Flag" for Fraud.

The Final Ruling

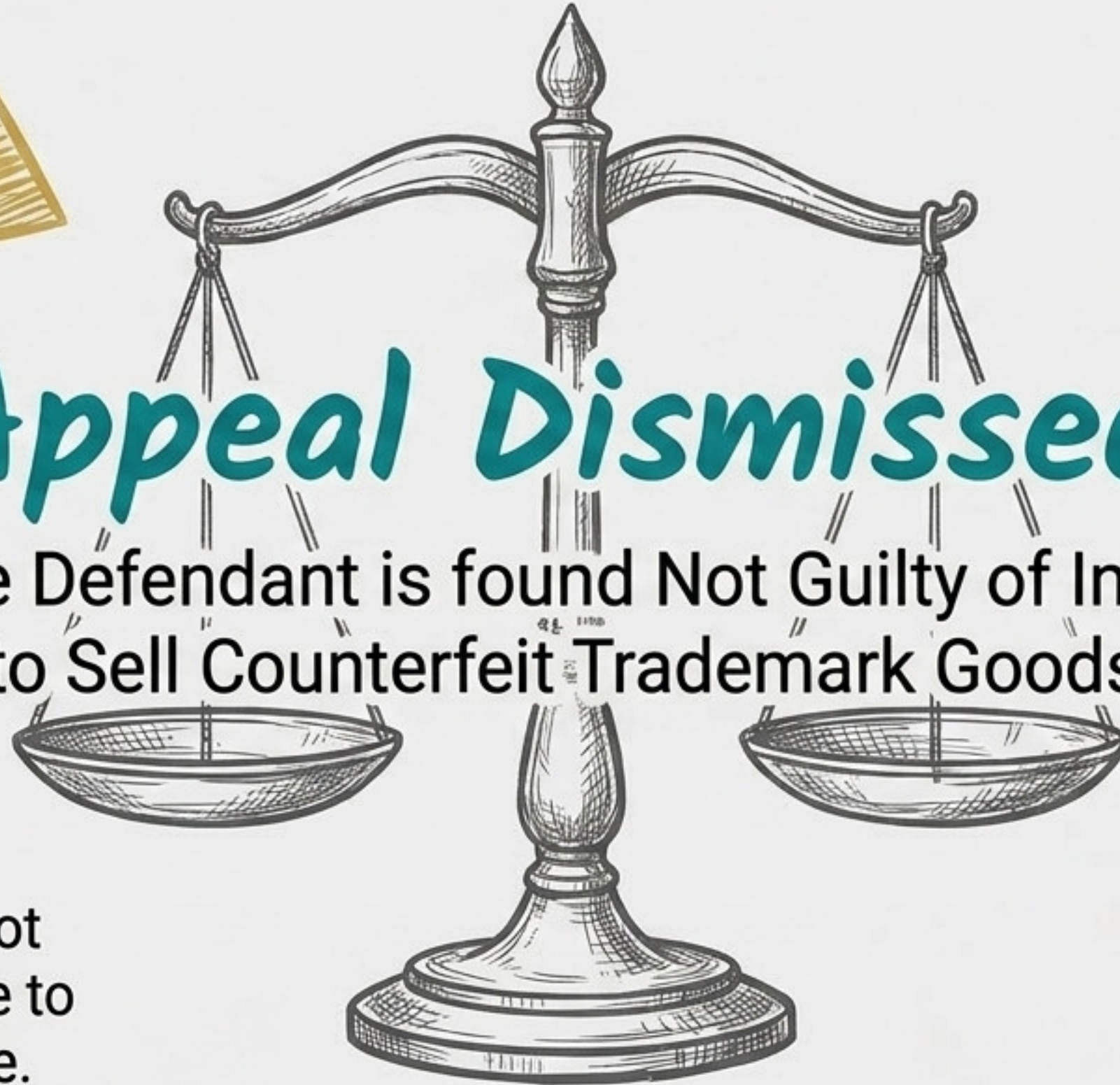
Prosecution
failed to prove
Direct Intent.

Appeal Dismissed.

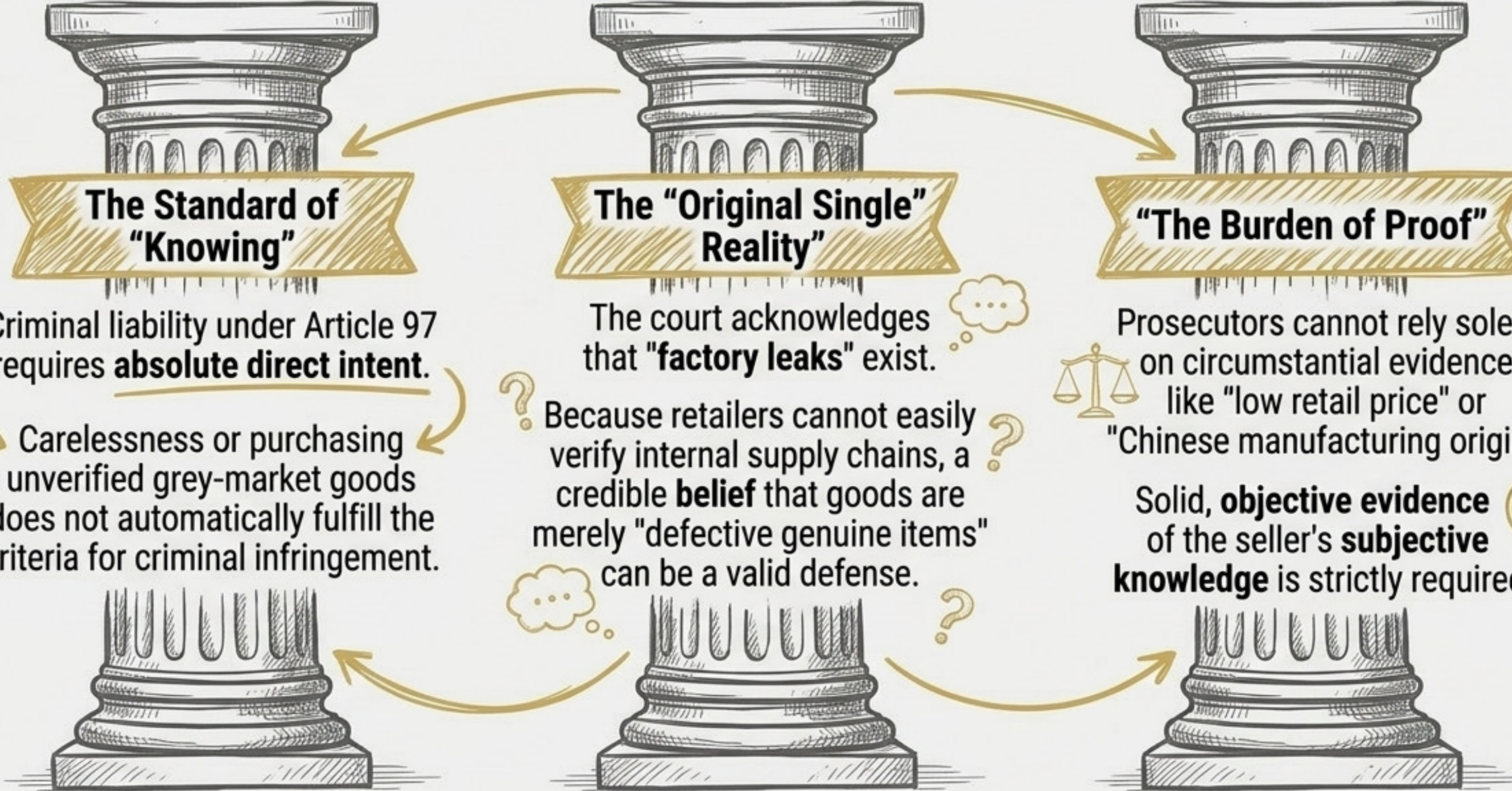
The Defendant is found Not Guilty of Intent
to Sell Counterfeit Trademark Goods.

Chat logs prove
credible belief in
Original Singles.

Low pricing does not
automatically equate to
criminal knowledge.



Key Takeaways & Implications from Judgment No. 55



The Standard of "Knowing"

Criminal liability under Article 97 requires **absolute direct intent**.

Carelessness or purchasing unverified grey-market goods does not automatically fulfill the criteria for criminal infringement.

The "Original Single" Reality

The court acknowledges that "**factory leaks**" exist.

Because retailers cannot easily verify internal supply chains, a credible **belief** that goods are merely "defective genuine items" can be a valid defense.

"The Burden of Proof"

Prosecutors cannot rely solely on circumstantial evidence like "low retail price" or "Chinese manufacturing origin."

Solid, **objective evidence** of the seller's **subjective knowledge** is strictly required.