

CONFIDENTIAL

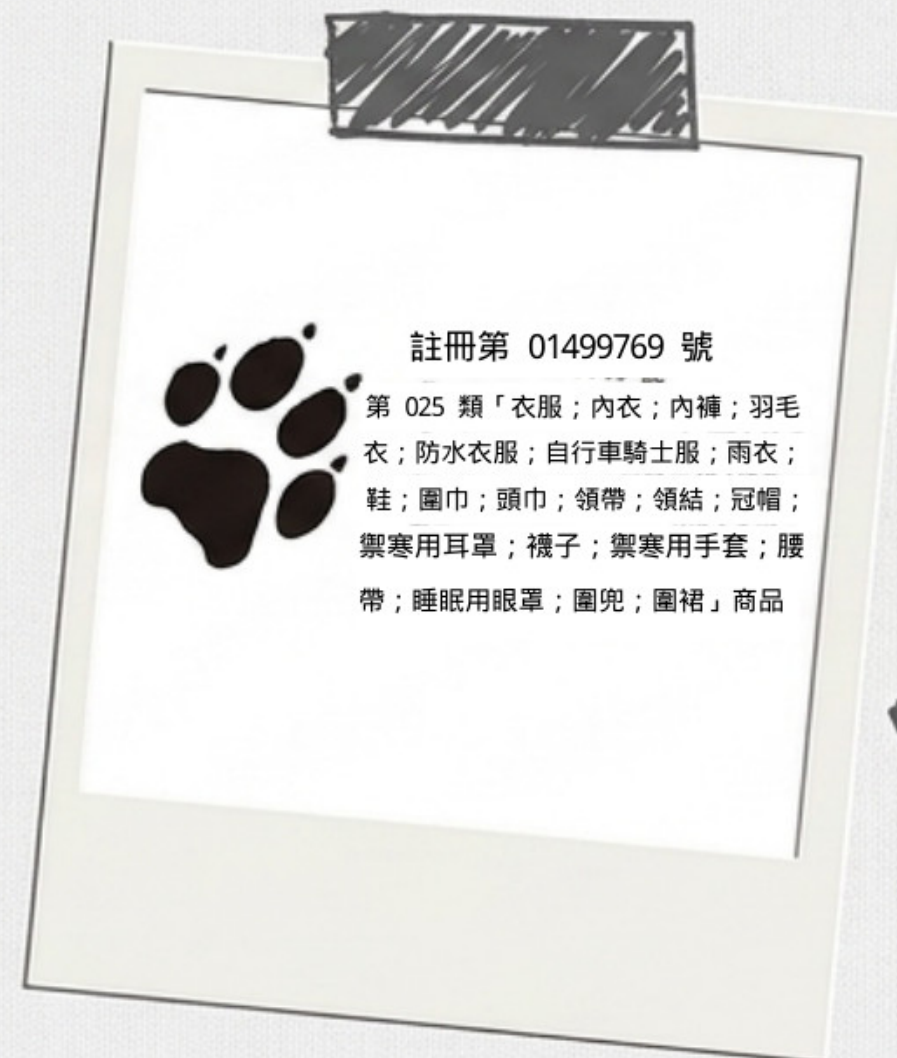
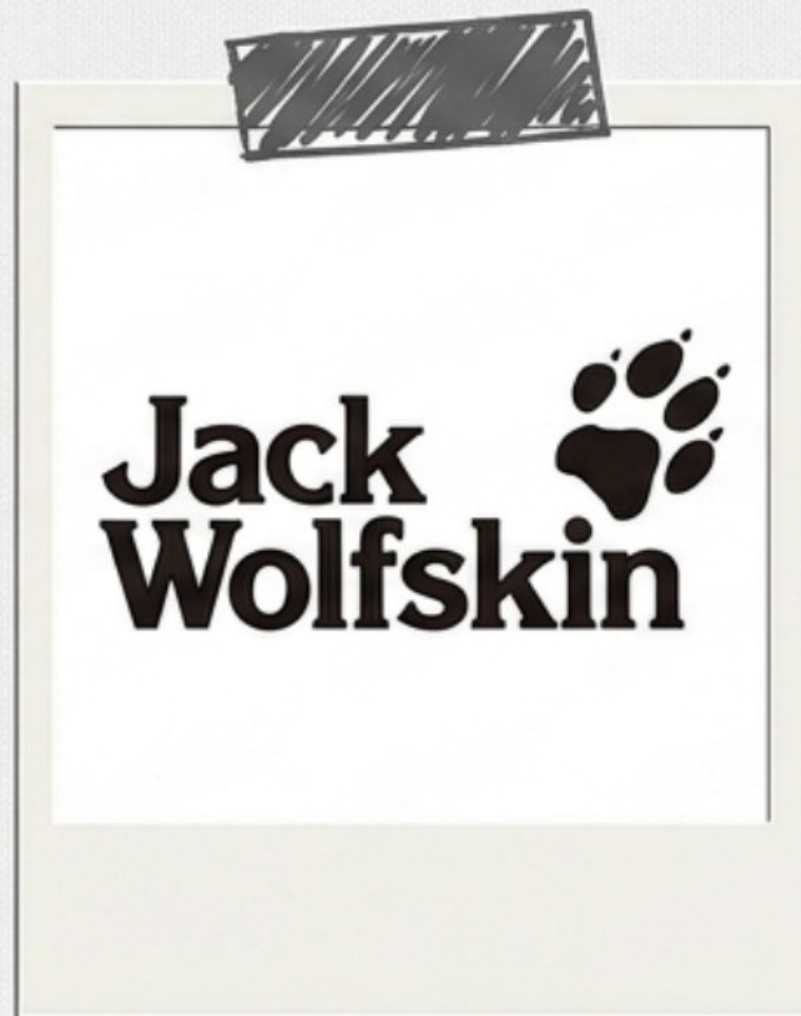
Trademark Infringement or Intent Innocent Import?

An Educational Analysis of Criminal Judgment
2022 Xing-Zhi-Shang-Yi-Zi No. 63

Source Date: Intellectual Property and Commercial Court
(Appeal Judgment rendered in 2022/2024).

Focus Area: Subjective
Intent (Mens Rea) &
Evidentiary Standards.

Exhibit A: The Registered Trademarks



Owner: Jack Wolfskin
Class 25: Clothing, footwear, headgear, weather-resistant apparel.
Registrations: No. 01499769 & No. 01499770

The dispute centers around the unauthorized importation of apparel bearing this specific 'Wolf Paw' design. But who is truly responsible?

The Logistics & The Seizure

Location: Keelung Port, Taiwan (April 9, 2021)

Event: Declared to Customs. Seized for suspected violation of Trademark Act §97 (Importing counterfeit goods).

Date: April 3, 2021

Event: Consolidated and shipped via sea freight. Defendant (Shangmei Enterprise) acts as the official importer of record.

Origin: Ho Chi Minh City, Vietnam

Event: Witness Chen purchases a bulk batch of clearance apparel.

The Core Dispute: Did the Defendant Know?



- ➔ Defendant officially filed the import declaration.
- ➔ Witness testimony was inconsistent, implying collusion.
- ➔ Defendant has prior IP violation records.

Prosecutor's Conclusion:
"Must have known"
(Intentional Infringement).



- ➔ Vietnam factory handled all packing lists and invoices directly.
- ➔ Witness never disclosed brand names before shipping.
- ➔ Defendant merely provided freight consolidation services.

Court's Conclusion:
Lacked Mens Rea
(Subjective Intent).

Issue I: Establishing Mens Rea (Subjective Intent)

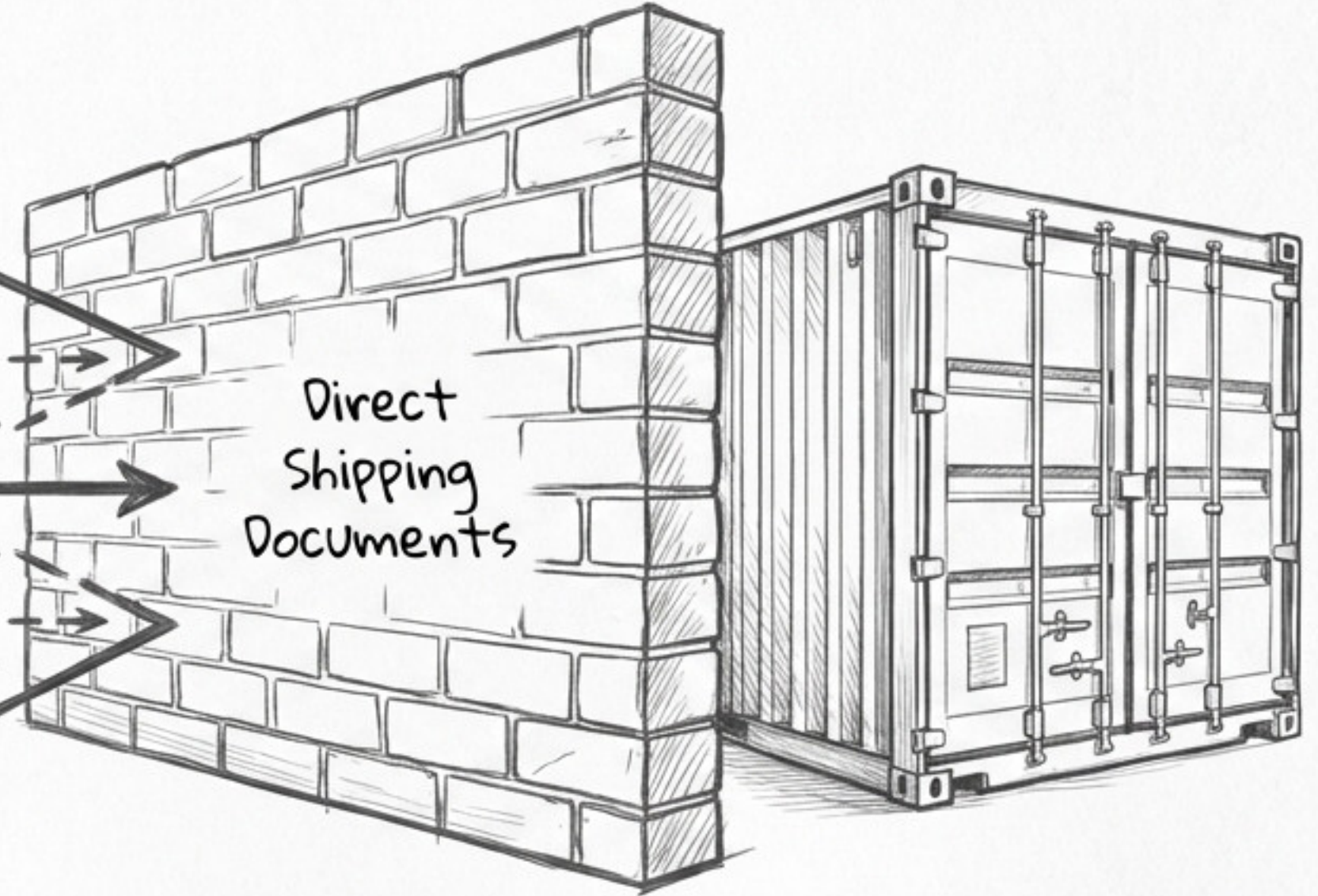
Legal Principle: Trademark Act §97 requires the offender to act “knowingly”. Strict liability does not apply to criminal IP infringement.



Line of Sight

A series of five horizontal dashed lines originate from the eye and extend to the left side of a brick wall. Each dashed line ends with a solid arrow pointing towards the wall, representing the 'Line of Sight'.

Direct
Shipping
Documents



Court's Finding: The Defendant did not directly handle the invoices or packing lists. These documents were faxed directly from the Vietnam sender to the local customs broker.

Insight: Acting as the official “Importer of Record” is insufficient to prove subjective knowledge of the specific goods hidden inside a consolidated freight container.

Issue II: The Weight of Imperfect Memory



Prosecution's Argument:
Witness Chen's inability to list exact apparel items proves he is lying to protect the Defendant.

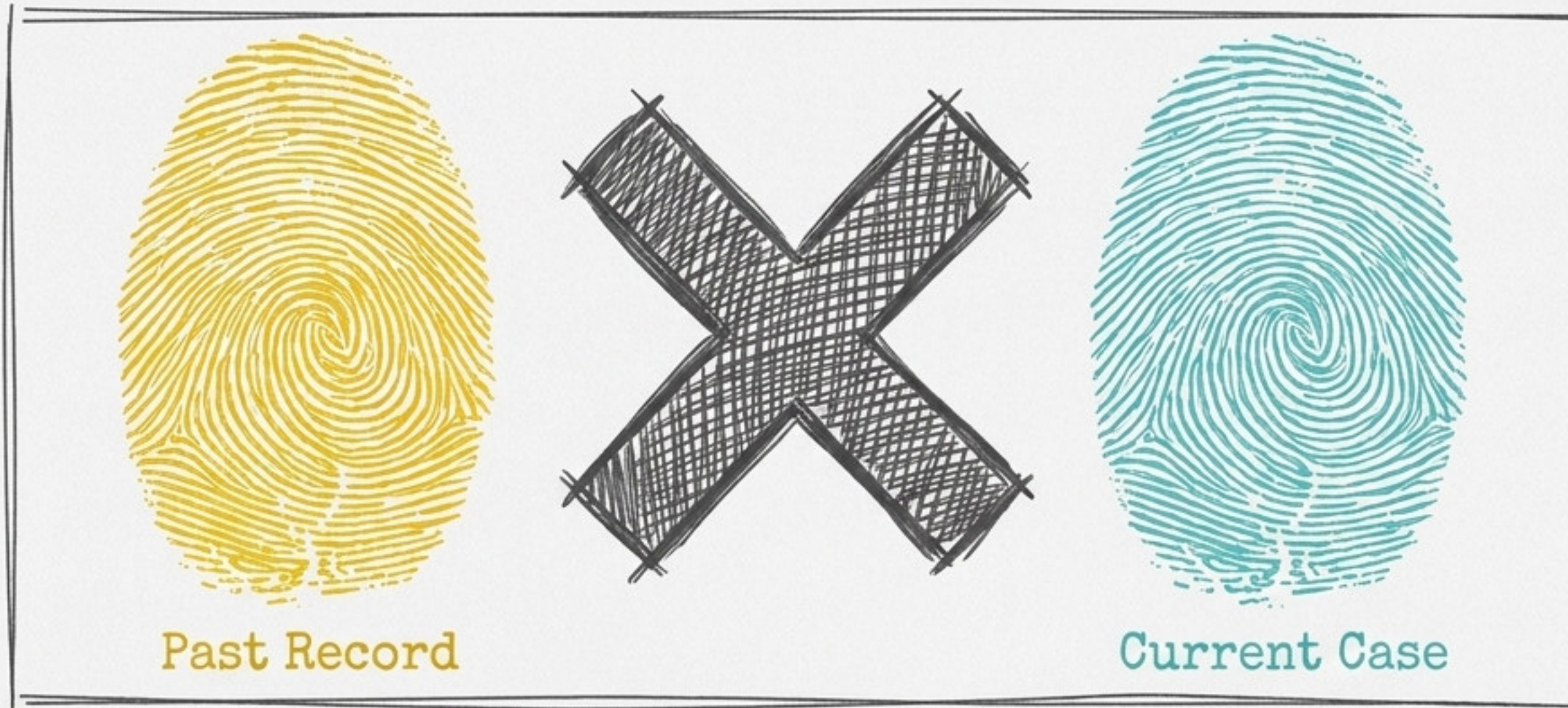
The Court's Reality Check

1. **The Time Factor:** Significant time had passed since the original purchase, leading to natural memory decay.
2. **The Bulk Factor:** Chen purchased "clearance stock" in massive bulk, naturally preventing detailed, itemized mental tracking of every single garment.

“Minor inconsistencies in testimony due to the natural decay of human memory do not automatically render a witness unreliable or prove a criminal conspiracy.”

Issue III: The Limits of Character Evidence

A prior criminal record cannot automatically prove current guilt. To use past crimes as proof of intent, there must be a specific Modus Operandi featuring striking, distinct similarity.



Court's Finding: The Defendant's prior trademark cases differed drastically in context, source origin, and quantity. There was no "striking similarity".

Key Insight: The Prohibition Against Propensity Inferences protects defendants from being convicted based solely on past habits rather than present facts.

The Verdict: Not Guilty



Ruling Body: Intellectual Property and Commercial Court.

The Rationale: The Prosecutor failed to meet the Burden of Proof required by Criminal Procedure Code §161. The evidence presented relied too heavily on assumptions and could not convince the court beyond a reasonable doubt of the Defendant's subjective intent.





Executive Summary & IP Strategy Insights



1. Strict Proof of Intent

In criminal IP cases, proving Mens Rea is paramount. Mere logistical involvement (like freight forwarding or acting as importer of record) does not equal actionable knowledge.



2. Limits of Past Records

Character Evidence has strict boundaries. Prosecutors and brand owners cannot rely on a defendant's history without proving a highly specific Modus Operandi.



3. Supply Chain Blind Spots

For brand owners, this case highlights the difficulty of prosecuting third-party logistics providers who lack direct visibility into the goods they transport. Enforcement strategies must focus on actual buyers and manufacturers.