



The Anatomy of Infringement

A Visual Case Study on Trademark Use in Physical Storefronts

How design choices dictate legal outcomes.

Source: Intellectual Property and Commercial Court, Civil Judgment 112 Min-Shang-Shang-Tzi No. 14 (August 1, 2024)

The Two Parties: A Clash of Identities

Appellant



- ✓ • **Registered Trademark** No. 00187496
- ✓ • **Class 44:** Orthodontics, Teeth Whitening
- ✓ • **Established:** May 2001
- ✓ • **Core Identifier:** Dens Beauty with smiling face logo.

Appellee



- ✓ • **Opened:** June 2022
- ✓ • **Business Name:** Dens Beauty Digital Dental Clinic
- ✓ • **Platform Usage:** Storefront signage, Google Business, Instagram, Facebook.

The Core Question



Does using a **specific name** on a physical clinic sign constitute **Use of Trademark**?

The **Appellant** claims the **Appellee** violated the **Trademark Act**, causing a **Likelihood of Confusion** among consumers.

Relevant Statutes

Trademark Act Section 5, Section 68(1)(3), and Section 69(1).

The Claims & Defenses



Appellant's Claim

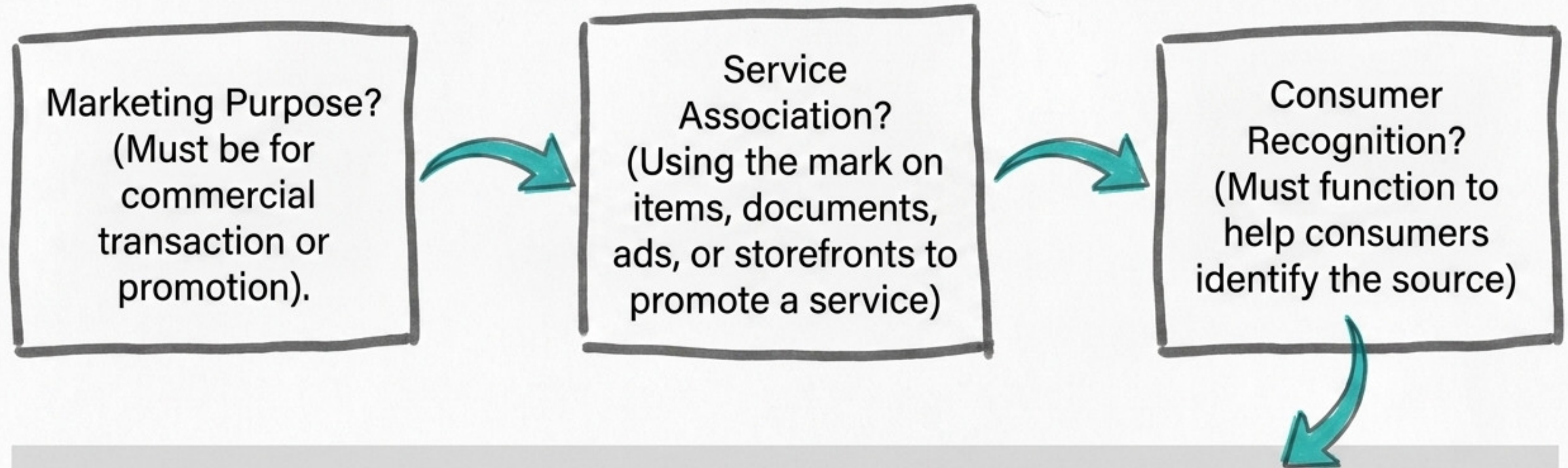
- Consumers looking at the physical sign and online ads will associate the clinics.
- High **Likelihood of Confusion** due to identical naming in highly similar medical services.
- Constitutes **Trademark Infringement** under **Trademark Act** Section 68(1)(3).



Appellee's Defense

- The name is merely a phonetic translation of their equipment brand (Dentsply Sirona).
- They are using the full name (Dens Beauty Digital Dental Clinic), not just the trademarked portion.
- No subjective malicious intent to copy.

The Objective Test for Use of Trademark



The Court's Stance: Services are intangible. If a physical sign acts as a recognizable badge of origin for a service, it objectively qualifies as **Use of Trademark**.

Objective Observation: The Hierarchy of Source Identification

Primary Identifier:
Disproportionately massive scale.



Descriptive Text:
Visually secondary;
merely describes
the service.

Consumers naturally use the most prominent text as their vocal callout. Therefore, this specific design choice objectively functions as an identifier of source, satisfying the conditions for **Use of Trademark**.

Why the Court Rejected the Defense

The Equipment Brand Excuse

The **Appellee** claimed the name was just a translation of their supplier (Dentsply).

Court Ruling: Adopting a supplier's name is an internal, subjective choice. It does not negate the objective reality that the **Registered Trademark** was registered first and possesses priority.

The Covering an Old Sign Excuse

The **Appellee** claimed the font was enlarged solely to cover the previous tenant's wall marks.

Court Ruling: The court noted the old sign marks were uniformly sized. The design choice to enlarge only the infringing word—rather than painting the wall or enlarging the whole sign—was unnecessary and intentional.

The Verdict: Applying **Trademark Act** Section 68(1)(3)



- **Identical Core Identifier:** The primary visual text on the storefront identically matches the **Registered Trademark**. ✓
- **Highly Similar Services:** Both parties operate in Class 44 (Dental/Orthodontic services). ✓
- **Result:** A high **Likelihood of Confusion**. Consumers might mistakenly assume an authorized franchise or corporate relationship exists. ✓

The **Appellee** is legally **barred** from using identical or similar words/designs on signs, cards, ads, or webpages, and is ordered to **systematically destroy** all existing infringing materials.

Case Summary & Strategic Insights

✓ Intent is Secondary to Objective Design

Subjective reasons (translating supplier names or covering wall damage) offer zero protection if the final visual outcome creates an objective Likelihood of Confusion.

✓ Hierarchy Equals Liability

In physical environments, typographic proportion defines your brand identifier. Making a word visually dominant dominant legally transforms it into a Use of Trademark.

✓ Protect Your Vocal Identifiers

A strong, early registration of your **core identifier** (the exact text consumers will speak out loud) provides robust protection against competitors on the street and online.