

Trademark Infringement or Diligent Compliance?

Deconstructing Intent, Negligence, and
the Duty of Care in IP Disputes



Intellectual Property and Commercial
Court, Civil Trademark Appeal No. 5
of 2023 (August 1, 2023).

The Accusation

Violation of
Trademark Act,
Article 68, Item 2
(Intentional
Infringement) &
Article 69.

**If a business removes
infringing goods BEFORE
receiving a Cease & Desist
letter, but an independent
distributor sells a leftover
unit afterward, is the business
guilty of intentional
infringement?**

The Defense

Proactive removal
negates Intent and
Negligence.

The Appellant (Plaintiff)

The Enforcer

UCLEAR

UCLEAR

註冊第 01560074 號

第 009 類「收音機；附時鐘收音機；收音座；錄音機；音響喇叭；音箱；揚聲器；麥克風；微音器；錄音座；揚聲器箱；音響外殼；收錄音機外殼；錄放音機；環繞音效處理器；交通工具用收音機；攜帶式媒體播放器；聲波定位儀器；計步器；耳機」

Reg. No. 01560074 (Class 09: Radios, speakers, headphones).

→ Action: Initiated litigation seeking damages for ongoing trademark infringement.

The Appellee (Defendant)

The Former Owner

優科利

優科利

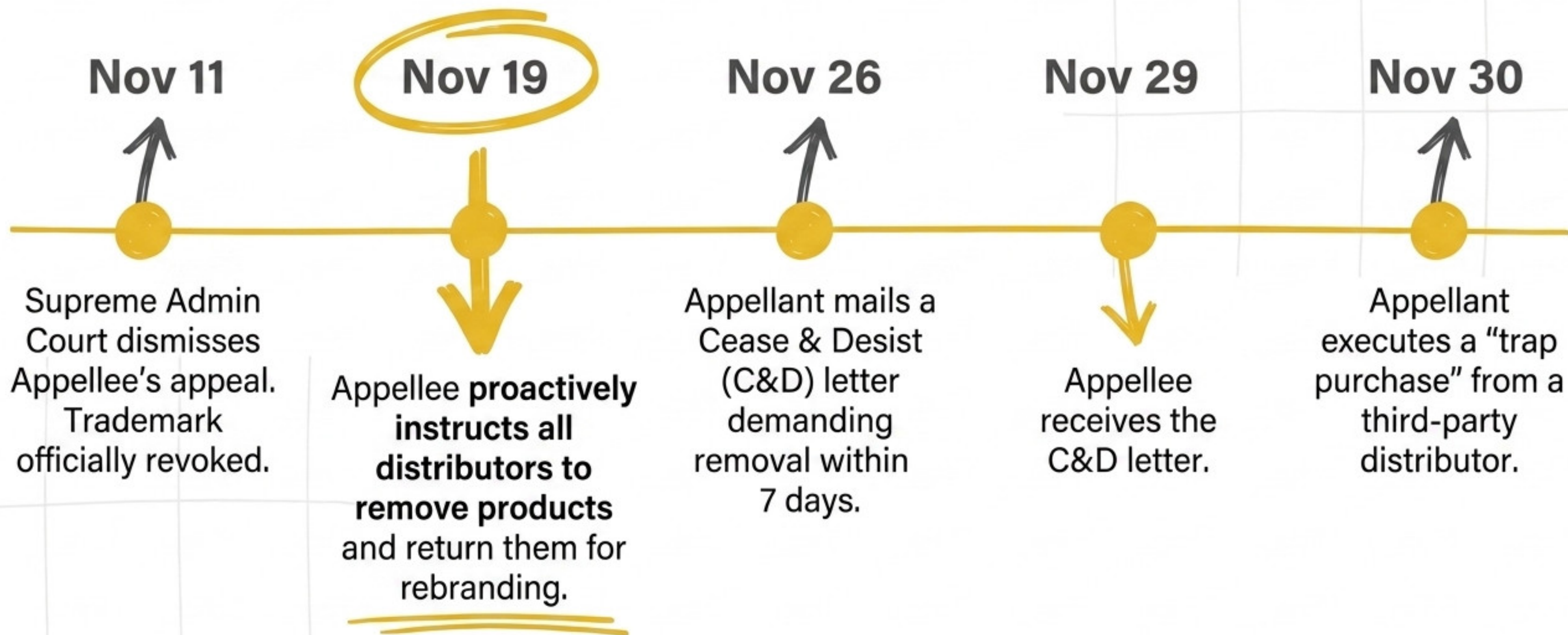
註冊第 01823697 號

第 009 類「行動電話應用程式、耳機、頭戴式耳機、耳塞式耳機、... 行動電源裝置、訊號線、電信線材、無線對講機、通訊器材、內部通訊設備、訊號收發器、交通工具用無線電設備、充電器。」商品

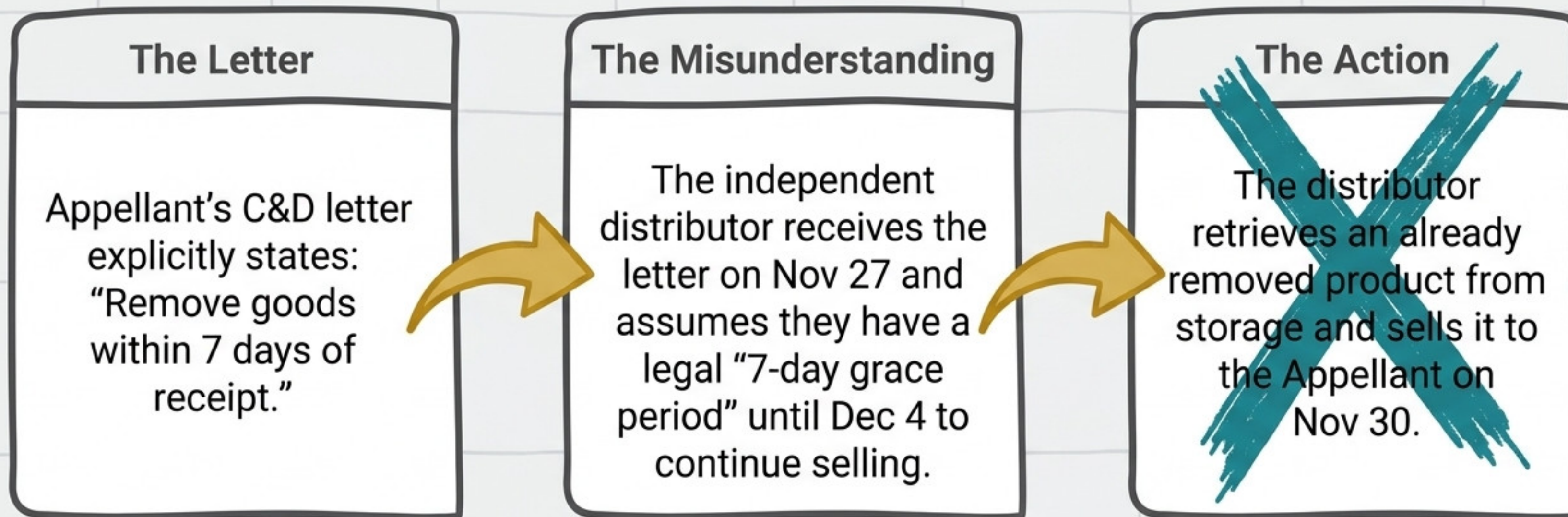
Reg. No. 01823697 (Class 09: Mobile apps, headphones, communication equipment).

→ Action: Defending against claims, citing proactive product recall after mark revocation.

The November 2021 Timeline



Anatomy of the “Trap” Purchase

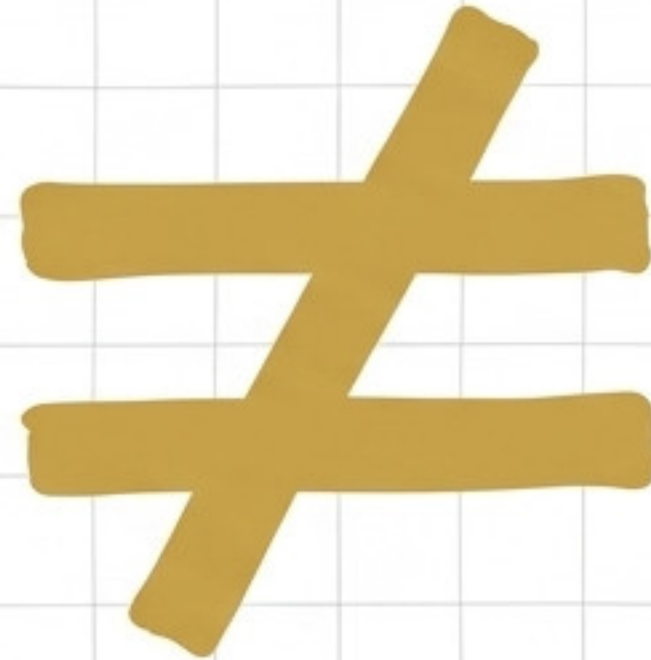


Insight: The sale was an independent, rogue action by the distributor based on the Appellant's own letter, not an instruction from the Appellee.

Analyzing Intent & Negligence

Appellant's Theory

Finding a product on a retail shelf equals absolute proof of Appellee's intent and negligence to infringe.



The Court's Reality

- Documented recall initiated Nov 19.
- Active processing of returns and free rebranding through early December.
- Evidence of Line messages from stores confirming shipments back to HQ.

Conclusion: Proactive compliance eliminates both intent and negligence.
The infringing behavior was halted BEFORE the C&D letter arrived.

Defining the “Duty of a Good Administrator”



The Fulfilled Duty

- ✓ Formally instruct distributors to stop using the revoked trademark.
- ✓ Demand removal of original packaging from public shelves.
- ✓ Provide a mechanism for returns and rebranding.

The Unreasonable Expectation

- ✗ The law does not require the Appellee to physically visit every third-party store to verify zero inventory.
- ✗ The Appellee cannot magically override a distributor's independent decisions or misunderstandings.

Court's Stance: By ordering the takedown on Nov 19, the Appellee fully satisfied their legal duty of care.

Rights Abuse vs. The Principle of Good Faith

Good Faith

Giving a retailer a 7-day window to comply with a takedown notice (Deadline: Dec 4).



Civil Code, Article 148:

The exercise of rights cannot primarily aim to harm others and must abide by good faith.

Executing a trap purchase on Day 3 (Nov 30) of that exact grace period to immediately initiate litigation.

Court's Observation: The court questioned whether initiating a purchase within one's own granted grace period violates the principle of good faith and constitutes an abuse of rights.



The Verdict

Appeal Dismissed.

Costs: Second-instance litigation costs to be borne entirely by the Appellant.



Core Rationale: The Appellee proved proactive and diligent compliance. The isolated retail sale was a direct result of a third party misunderstanding the Appellant's own legal notice, not the negligence of the Appellee.

Synthesis & Strategic Takeaways

For Defendants (The Shield of Speed)

Swift, documented action is your best defense. Initiating a recall BEFORE receiving a C&D completely negates claims of intent or negligence.

For Plaintiffs (The Trap of Grace Periods)

Deadlines are binding on both parties. If you offer a 7-day compliance window, leveraging a trap purchase during that window may be legally viewed as an abuse of rights.

For the Law (The Limit of Control)

The "Duty of a Good Administrator" has reasonable limits. Brand owners are required to instruct and facilitate takedowns, but they are not strictly liable for the rogue actions of independent retailers.