



TRADEMARK USE & LIKELIHOOD OF CONFUSION

A Case Study on Digital Branding and Evidentiary Standards

Taiwan Intellectual Property and Commercial Court
2023 Min-Shang-Shang No. 8 Civil Judgment

The Brands in Dispute

The logo for iROO, featuring the text "iROO" in a bold, sans-serif font. The "i" is lowercase and italicized, while "ROO" is uppercase. A teal hand-drawn circle highlights the "ROO" portion of the logo.

VS



Plaintiff
iROO

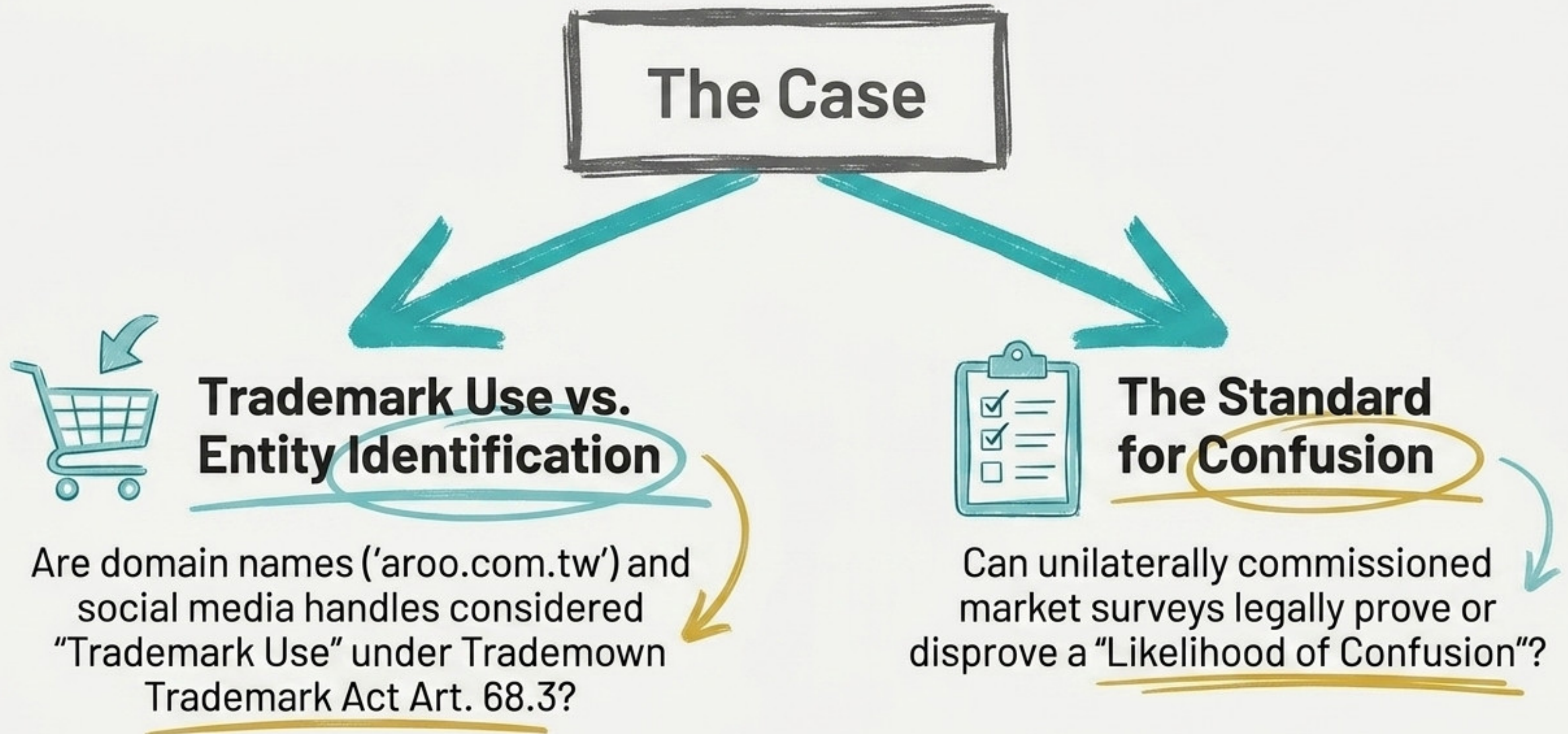
Registered 1999. Classes 25 (Apparel), 35 (Retail). Operates 79+ physical stores. Claims "Well-Known Trademark" status.

Does AROO's digital and physical presence infringe on iROO's trademark rights?

Defendant
AROO

(Wei-Yi International Development Co., Ltd.)
Functional fitness apparel. Digital-first retail presence.

Two Critical Legal Issues

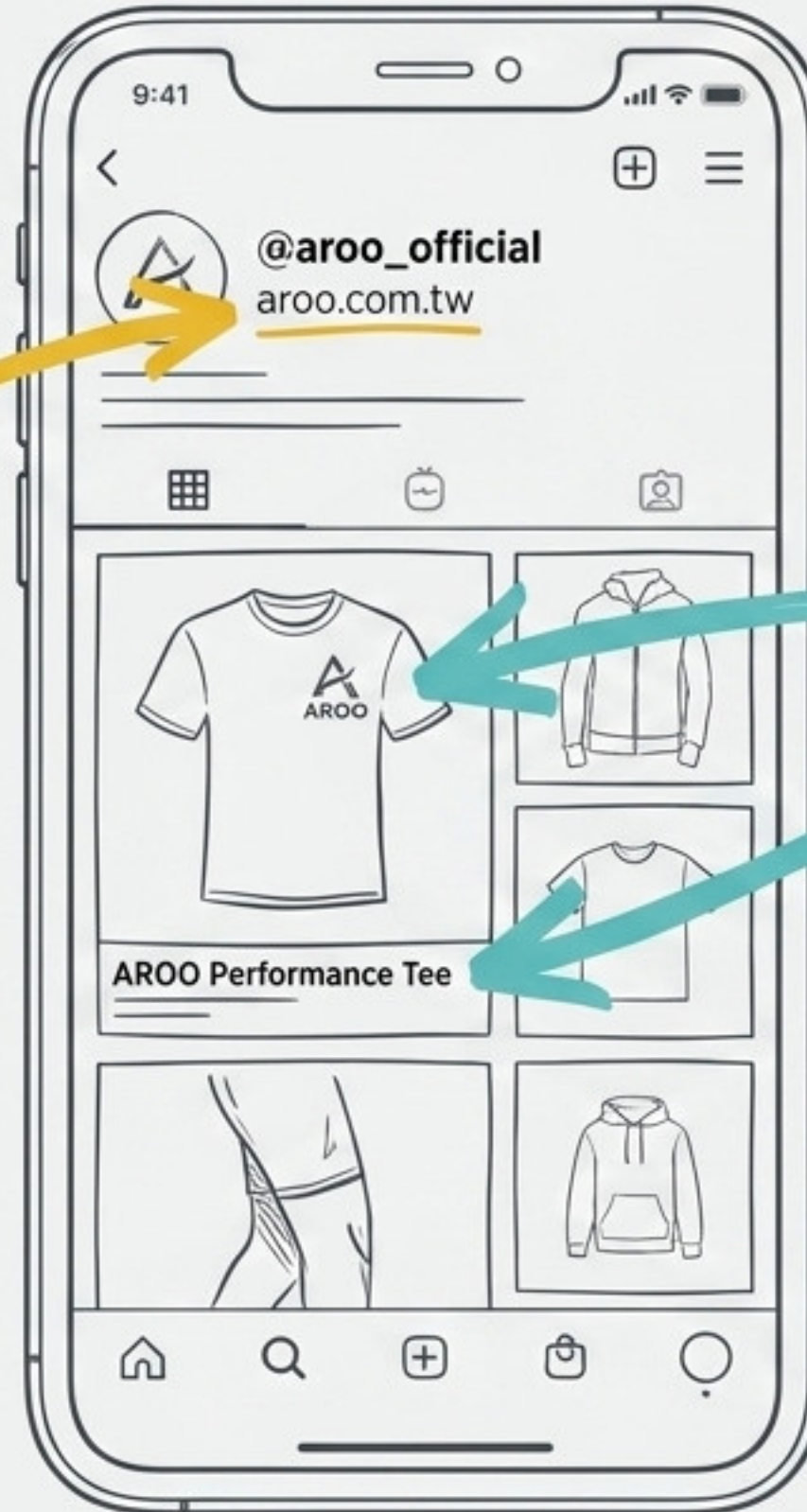


Where is the Trademark?

Entity Identification (Safe Harbor)

Used merely to differentiate business entities or accounts.

Under general market conditions, consumers do not view this directly as a product identifier.



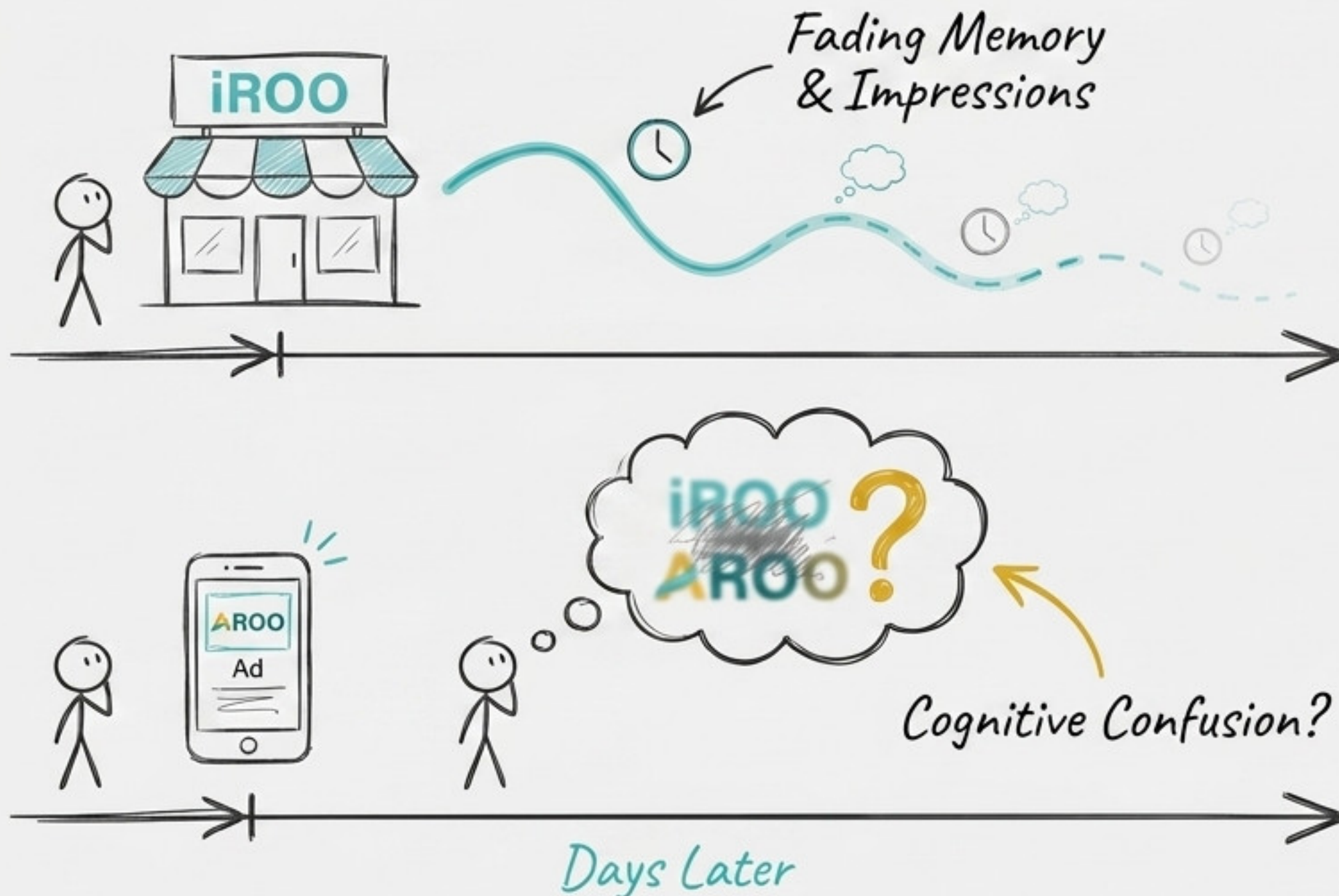
Trademark Use (Infringement Risk)

Displaying “AROO” on physical apparel and as a product prefix.

Consumers rely on this to identify the source of goods.

The 'Isolated Observation' Principle

"Isolated Observation at Different Times and Places"
(Likelihood of Confusion Examination Guidelines 5.2.3).



The Reality

Consumers do not compare products side-by-side. They rely on vague, imperfect memories across different times and locations.

The Legal Test

The court evaluates whether these blurred, delayed impressions lead a consumer to mistakenly believe the goods come from the same or affiliated sources.

Admissibility of Survey Evidence

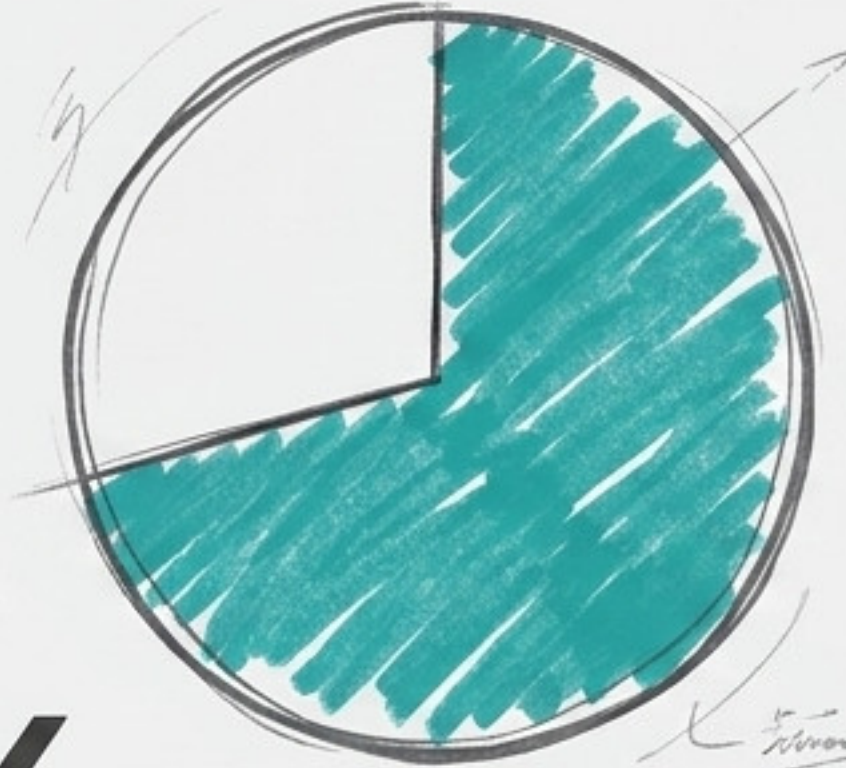
	Defendant's Private Survey	Court-Appointed Survey
Commission.	Unilateral (China Research Institute) 	Mutual Agreement (Taiwan Institute of Economic and Technology Development) 
Geographic Scope.	Limited to Taipei/New Taipei 	Nationwide (North, Central, South + Online) 
Methodology.	Ignored "Isolated Observation" principle 	Strictly followed official examination guidelines 

Unilateral, localized surveys lacking proper methodology hold no evidentiary weight in court.

The Court-Appointed Findings

Online Survey
>70%

(Excluding 'don't know' responses, 17.88% + 55.63% believed the two brands originated from the same company or were associated).



Physical Survey
>60%

(Excluding 'don't know' responses, 18.82% + 44.95% believed the two brands were identical or associated).



A high degree of similarity exists, resulting in actual Likelihood of Confusion among consumers.

The "Well-Known" Trademark Hurdle



The Claim:

iROO demanded the cancellation of the "aroo.com.tw" domain, claiming dilution of a famous mark under Trademark Act Art. 70.2.

The Court's Finding:

While familiar to some, Plaintiff failed to provide overwhelming evidence that iROO is universally recognized by the general public as a "Well-Known Trademark".

The Result:

Because it lacks "Well-Known" status, the Defendant is NOT required to cancel the domain name or social media accounts.

The Final Judgment

VERDICT

Infringement Established:

Defendant's use of "AROO" on physical apparel, website fronts, and product listings violates Trademark Act Art. 68.3. Defendant must cease use in these areas.

Claims Dismissed:

Plaintiff's demand to cancel the 'aroo.com.tw' domain and social media handles is rejected. These act as entity identifiers, and iROO lacks the 'Well-Known' status to force cancellation.

Strategic Takeaways & Inspirations



1. **"Use" Dictates Infringement**: Registering a domain or social handle is generally protected as "Entity Identification." However, stamping that exact name on a product, photo, or sales listing crosses the line into actionable "Trademark Use."



2. **Survey Methodology is King**: Market surveys are powerful evidence, but they must be neutral, nationwide, and adhere strictly to the "Isolated Observation" principle. Unilateral, localized surveys are easily dismissed by the court.



3. The Burden of **"Well-Known" Status**: Claiming dilution of a famous mark (and forcing domain cancellations) requires overwhelming, universally accepted proof of public recognition. Niche or regional popularity is insufficient.