



The Anatomy of a Ruling: O-KING LEGEND

Navigating the Territoriality Principle and Well-Known Trademark Standards in Cross-Border Disputes.

Source: Intellectual Property and Commercial Court, 2023
Min-Shang-Su-Zi No. 4



The Plaintiff
Registered Trademark Owner
(O-KING LEGEND)

2012–2019: Authorized
Distribution Agreement



Hong Kong Distributor
Dakourong Import Co., Ltd.



The Defendant
O-KING LEGEND
Brown Sugar Food Co., Ltd.



The Conflict: Post-2019, Plaintiff
discovers Defendant allegedly
manufacturing and exporting
products to the HK Distributor.

The Registered Trademarks



Registered under Classes 29, 30, 32, 32, 33, and 43 (covering goods like brown sugar, tea, and beverages).

VS

The Alleged Infringing Mark



Used on identical product categories. Plaintiff claims a high degree of similarity causing consumer confusion.

The Battleground: Two Legal Pillars

Pillar 1: Claim of Direct Infringement

Legal Basis: Trademark Act Art. 68(3), 69(1), 69(2).

Argument: Defendant manufactured and exported goods bearing highly similar marks on identical goods, causing confusion.

Remedy Sought: Cease infringement and destroy infringing items.

Pillar 2: Claim of Dilution via Corporate Name

Legal Basis: Trademark Act Art. 70(2).

Argument: Defendant used the 'famous' O-KING LEGEND mark as its registered company name, diminishing the trademark's distinctiveness.

Remedy Sought: Force Defendant to change its corporate name.

The Geographic Limits of Protection



The Territoriality Principle (Lex Loci Protectionis)

Trademark rights are strictly limited to the territory where they are registered. Taiwan's trademark laws do not extend to sales in Hong Kong.

The Burden of Proof (Civil Procedure Code Art. 277)

Because the Plaintiff bought the infringing goods in Hong Kong, the Plaintiff holds the **burden of proving** that the Defendant **physically** manufactured these goods inside Taiwan's borders.



**FATAL DISCREPANCY:
Addresses do not match!**



The Court's Finding: A label alone is insufficient proof of origin. Plaintiff failed to prove manufacturing occurred in Taiwan. Claim 1 Dismissed.

The High Bar for “Well-Known” Status



Standard: Enforcement Rules of the Trademark Act, Art. 31. The mark must be widely recognized by relevant enterprises or consumers within the domestic market (Taiwan).

October 11, 2017

Defendant officially incorporates company.

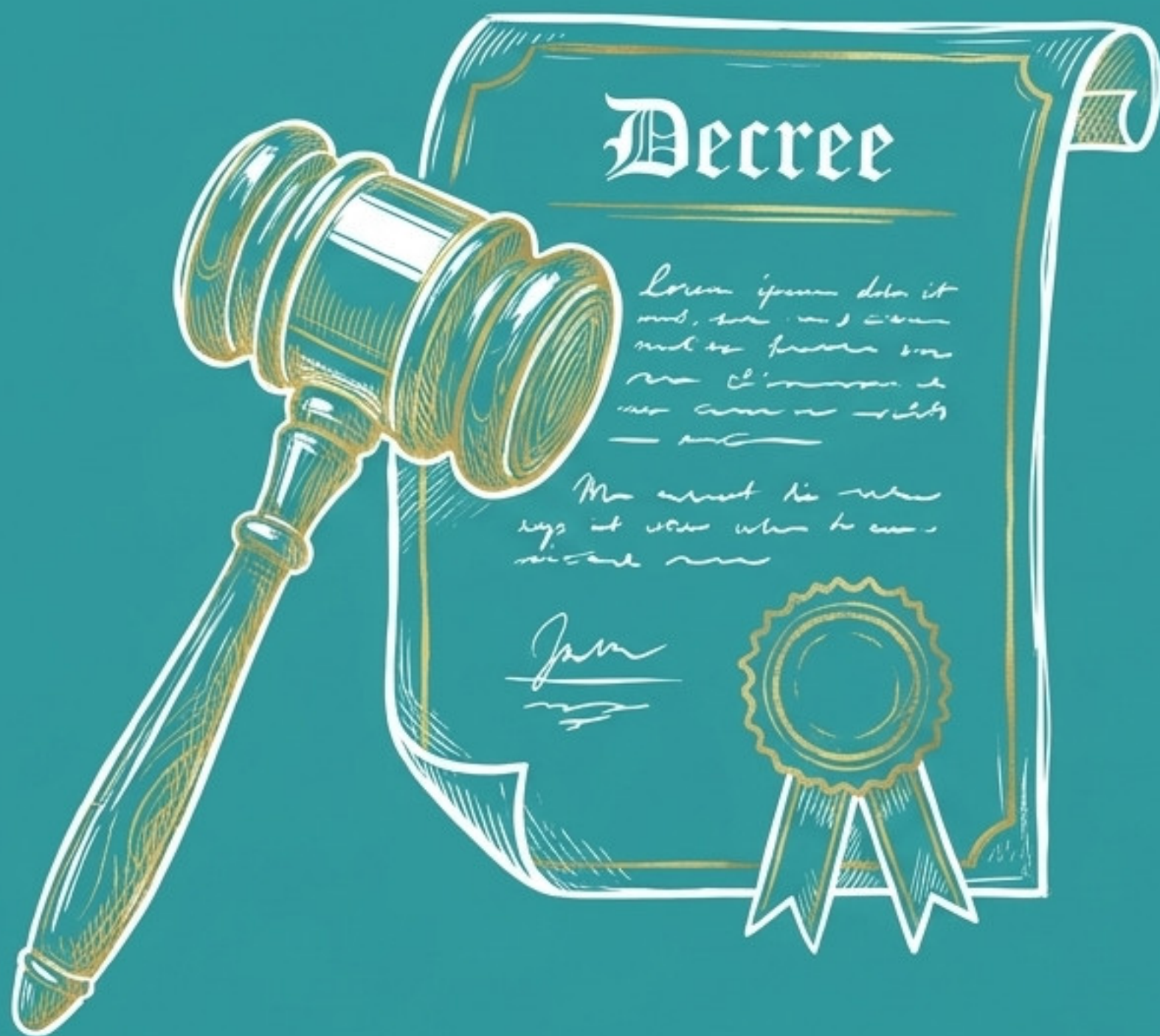
The Rule: The Plaintiff must prove their trademark was universally recognized in Taiwan **BEFORE** this exact date to claim dilution.

Evidence Presented

The Court's Evaluation

Internet & Media Coverage (2019+)	Post-dates the Defendant's 2017 incorporation date. Irrelevant.
Facebook Pages (Est. 2012)	Both domestic and foreign pages showed limited likes and followers. Insufficient reach.
Trade Exhibitions	2012 exhibition was outside jurisdiction. 2018 exhibition post-dates incorporation.
Consumer Protection Award	Awarded in 2018 (too late). Only featured company name, not the specific trademarks.

Conclusion: Plaintiff failed to prove 'Well-Known' status. Claim 2 Dismissed.



The Final Verdict: Claims Dismissed

Finding 1: Without proof of domestic manufacturing, the Territoriality Principle shields the Defendant from infringement claims regarding goods sold in Hong Kong.

Finding 2: Without sufficient evidence of fame prior to October 2017, the Defendant's use of 'O-KING LEGEND' as a corporate name is legally permissible.

The Order: The Plaintiff's lawsuit is entirely dismissed, and the Plaintiff must bear all litigation costs.



Strategic Imperatives for Brand Owners

Jurisdiction is Absolute.

The Territoriality Principle is unforgiving. If you manufacture or distribute in multiple regions (e.g., Taiwan and Hong Kong), you must secure and enforce registrations independently in every single jurisdiction.

Audit Your Supply Chain Evidence.

A name on a package does not equal legal proof of origin. If litigating cross-border manufacturing, investigators must secure direct, verifiable evidence of domestic production (e.g., factory audits, shipping manifests).

Archive Your Analytics.

'Fame' is a strict legal timeline, not a vague concept. Brand owners must rigorously archive domestic social media metrics, awards, and media mentions with clear date stamps to preemptively prove 'Well-Known' status before competitors incorporate.