

The Anatomy of a Symbol

Deconstructing the “Red Cross”
Trademark Dispute in Animal Healthcare

*Source: Intellectual Property and Commercial Court,
Case No. 12, Xingshangsu, 2023. Date: Dec 3, 2023.*

The Clash of Identities



Disputed Mark (Registered Mar 15, 2018)

Class 44: Animal medical, veterinary, and grooming services.



Cited Mark

Symbolizing membership of the Red Cross Society; humanitarian aid.

Core Question: Does the inclusion of a red cross in a stylized veterinary logo constitute trademark infringement?

The Legal Framework



Trademark Act §30(1)(5)

Protection against marks that might mislead or cause Likelihood of Confusion regarding the nature, quality, or place of origin of services.

Trademark Act §30(1)(11)

Protection of a Well-Known Trademark from dilution, diminishment of distinctiveness, or public confusion.

The Plaintiff's Stance: Absolute Protection

The Argument

- The Red Cross is a globally recognized Well-Known Trademark protected internationally by the Geneva Conventions.



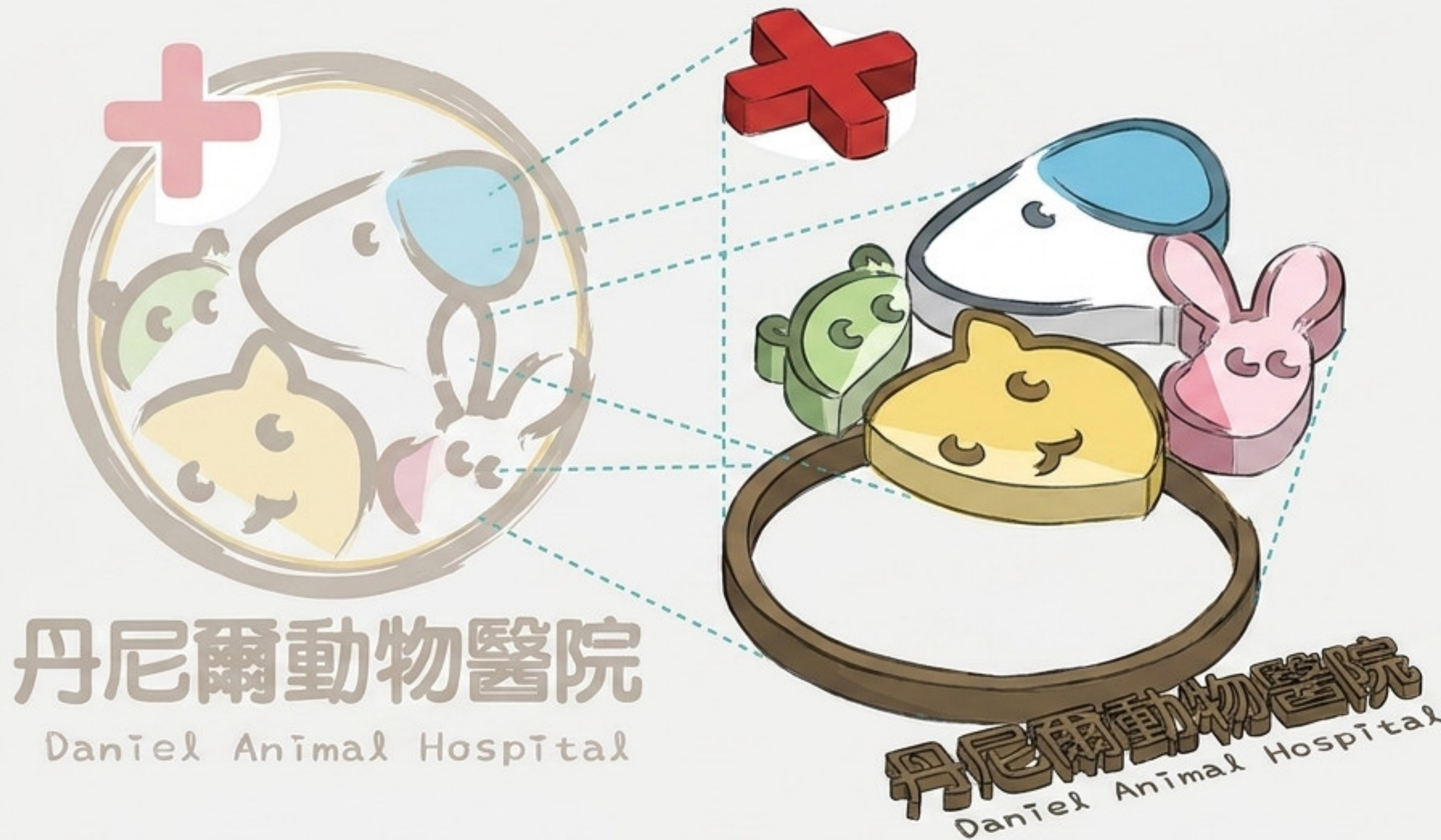
ICRC



The Claim

- Any commercial use of a red cross—even within a stylized animal hospital logo—dilutes an internationally protected humanitarian emblem and creates immediate Likelihood of Confusion.

The Court's First Tool: Overall Observation



Layer 3 (Minor Element): A localized red cross with a partial white background tucked in the upper left.

Layer 2 (Dominant Visual): Four stylized, pastel-colored cartoon animals (taking up the largest visual proportion).

Layer 1:
Layer 2: Brown circular frame and specific typography ('Daniel Animal Hospital').

Legal Concept: Overall Observation. The court mandates analyzing the design as an indivisible whole. Hyper-focusing on just the cross violates this principle.

The Diagnostic Matrix: Evaluating Similarity

Diagnostic Criteria	Disputed Mark (Daniel)	Cited Mark (Red Cross)
Visual Assessment	Brown circle + dominant cartoon animals	Blue outer circle + white plum blossom + central cross
Phonetic Assessment	Read as "Daniel Animal Hospital"	Read as "Red Cross"
Conceptual Assessment	Commercial pet care and grooming	Humanitarian aid and disaster relief

Court's Conclusion:
Very Low Similarity across all metrics.

Contextualizing the Symbol: The Industry Norm

Core Legal Concept: Distinctiveness vs. Descriptive Mark



Highly Distinctive

Descriptive / Generic

The Court's View: In Class 44 (medical and veterinary services), a cross is an industry-standard symbol. It is primarily used to communicate "medical, rescue, or healthcare" services.

The Impact: Because it is a generic indicator of services, it possesses extremely low Distinctiveness. Consumers pay less attention to the cross itself and rely on the unique elements (the cartoon animals and hospital name) to identify the brand.

Mapping the Likelihood of Confusion

Step 1: Visual Encounter



Consumer sees the heavily stylized animal logo.

Step 2: Contextual Processing



Consumer recognizes the cross merely as a generic medical indicator (Descriptive Mark), not a brand identifier.

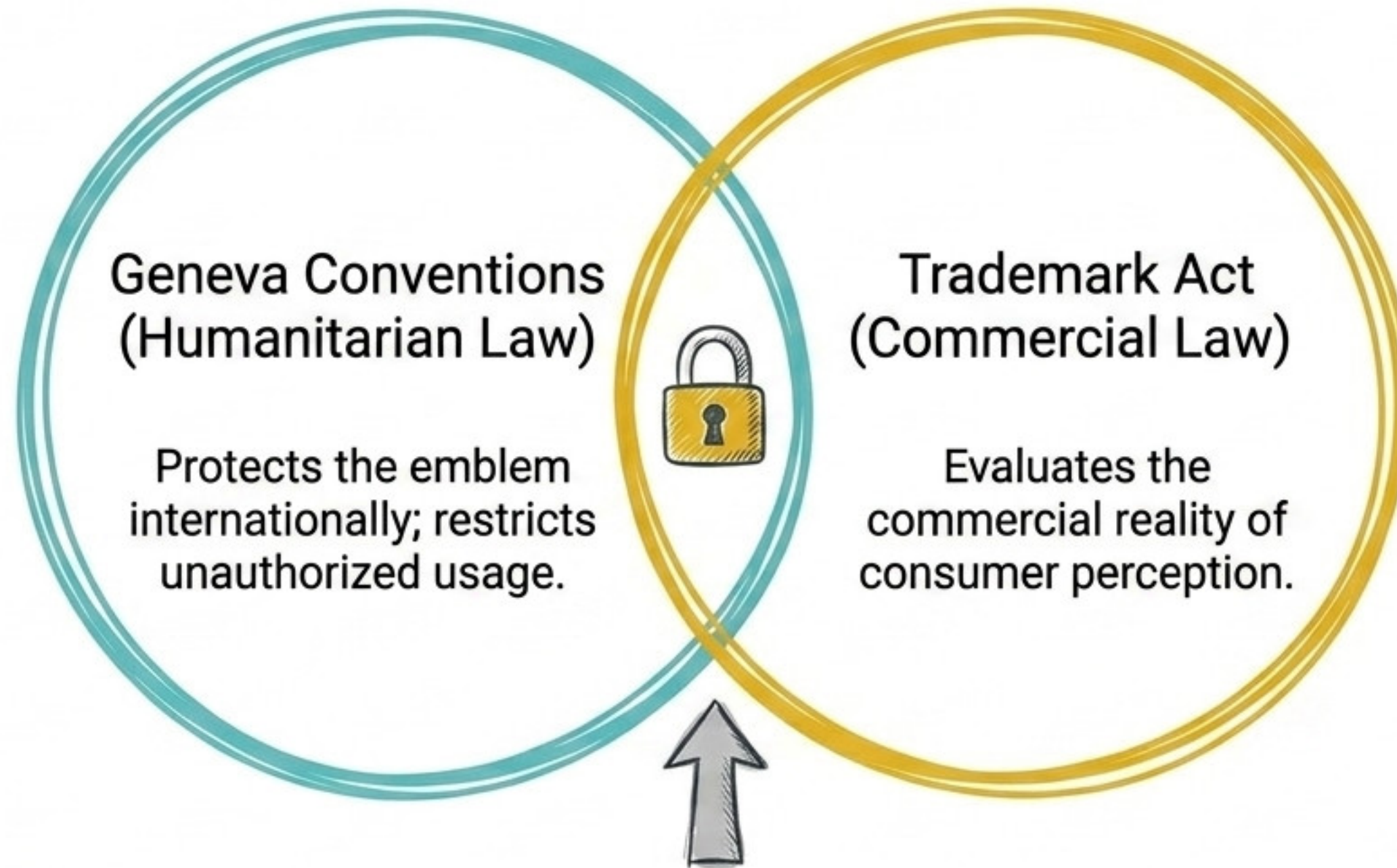
Step 3: Source Determination



Consumer correctly associates the service with commercial pet care, completely separate from international humanitarian relief.

Conclusion: Due to low similarity and different service contexts, actual Likelihood of Confusion fails to materialize.

Treaties vs. Domestic Trademark Law



The Court's Ruling: The presence of a treaty-protected symbol does NOT trigger an automatic trademark veto. Domestic invalidation still requires passing the rigorous, consumer-centric test of Likelihood of Confusion and Overall Observation.

Judgment Synthesis & Key Insights



1. **Context Dictates Distinctiveness.** A globally famous symbol can be deemed a weak Descriptive Mark lacking Distinctiveness if it functions as a generic industry indicator (e.g., a cross in healthcare).



2. **The Power of Overall Observation.** Integrating a controversial symbol into a larger, heavily stylized, and dominant design (like cartoon animals) dramatically reduces similarity and shields the mark.



3. **Treaties Do Not Bypass Trademark Mechanics.** International treaties protecting a symbol do not supersede the domestic requirement to prove actual Likelihood of Confusion based on consumer perception.

Source: Intellectual Property and Commercial Court, Case No. 12, Xing-Shang-Su, 2023. Dec 3, 2023.

Signify