

Trademark Revocation Analysis: The Boundaries of "Use"

Source: Intellectual Property and
Commercial Court Administrative
Trademark Suit No. 18
(Judgment Date: 2025)

A visual case study on Trademark Identity and Marketing Intent.



Legal Framework: Trademark Act Article 63, Paragraph 1, Subparagraph 2.

The Disputed Property



Designated Goods (Broad Scope):

- Class 18 (Bags, Leather goods, Luggage)
- Class 25 (Clothing, Footwear, Headgear)
- Class 27 (Mats, Yoga mats)
- Class 28 (Gymnastic/Sporting articles, Toys)

The Plaintiff (Trademark Owner)

Fights to maintain registration across all designated classes.

Claims active use in commerce and intent to market globally, including Taiwan.

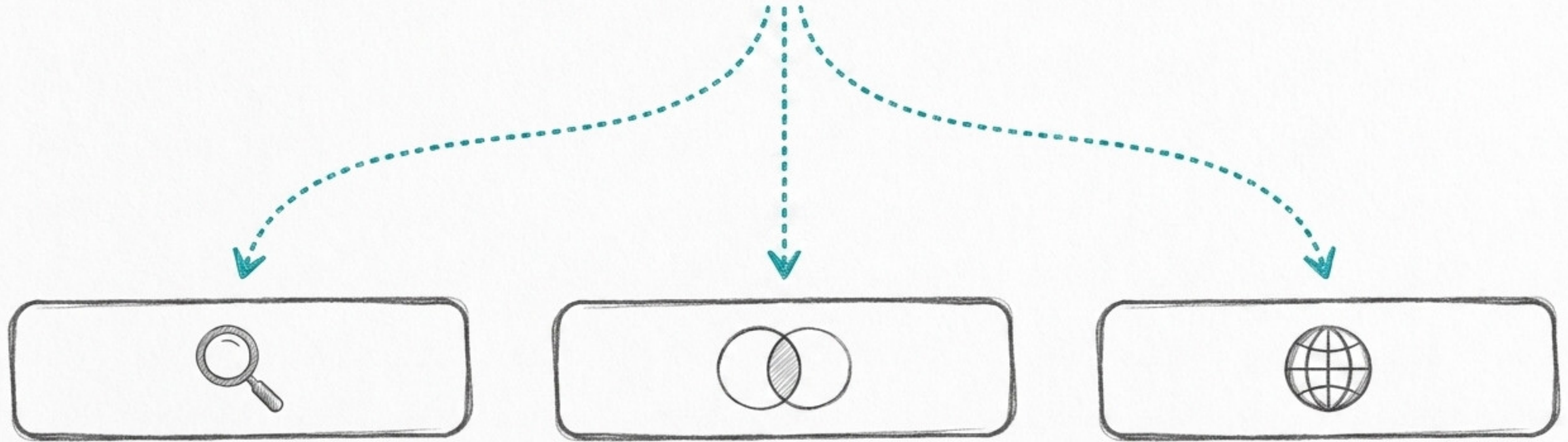
The Intervener / Defendant (Revocation Applicant)

Argues the trademark should be fully revoked.

Claims there is a lack of valid, genuine use in commerce within the statutory 3-year period under Trademark Act Art. 63(1)(2).

The Core Question: Has the trademark been legally and genuinely used in Taiwan?

The Three Battlegrounds



Issue 1: Trademark Identity

Question: Does omitting minor design elements during actual use destroy the trademark's legal identity?

Issue 2: Same Nature of Goods

Question: Are yoga apparel and fitness equipment considered goods of the same nature under commercial transactions?

Issue 3: Marketing Intent

Question: Does a global shipping dropdown menu on a foreign website prove marketing intent in Taiwan?

Issue 1: The Missing Color Bars

Registered Mark



Actual Use Evidence



The Discrepancy: The Plaintiff used the trademark on products, but omitted the three colored vertical bars on the left side.

Did this omission fundamentally change the trademark?

Court's Finding: Identity Maintained



The omitted colored bars cannot be directly pronounced.



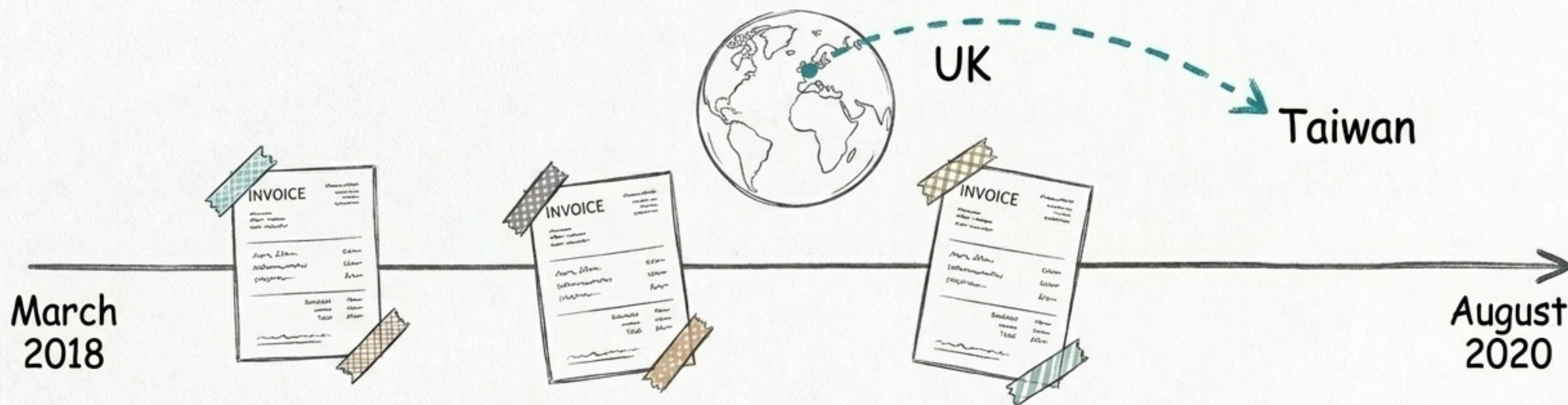
They occupy a small visual proportion and act merely as an "accessory" element.



The primary identifying feature—the specifically stylized "USA PRO" text—remains structurally unchanged.

Verdict: According to general consumer perception, it leaves the identical impression. The "Trademark Identity" is legally preserved.

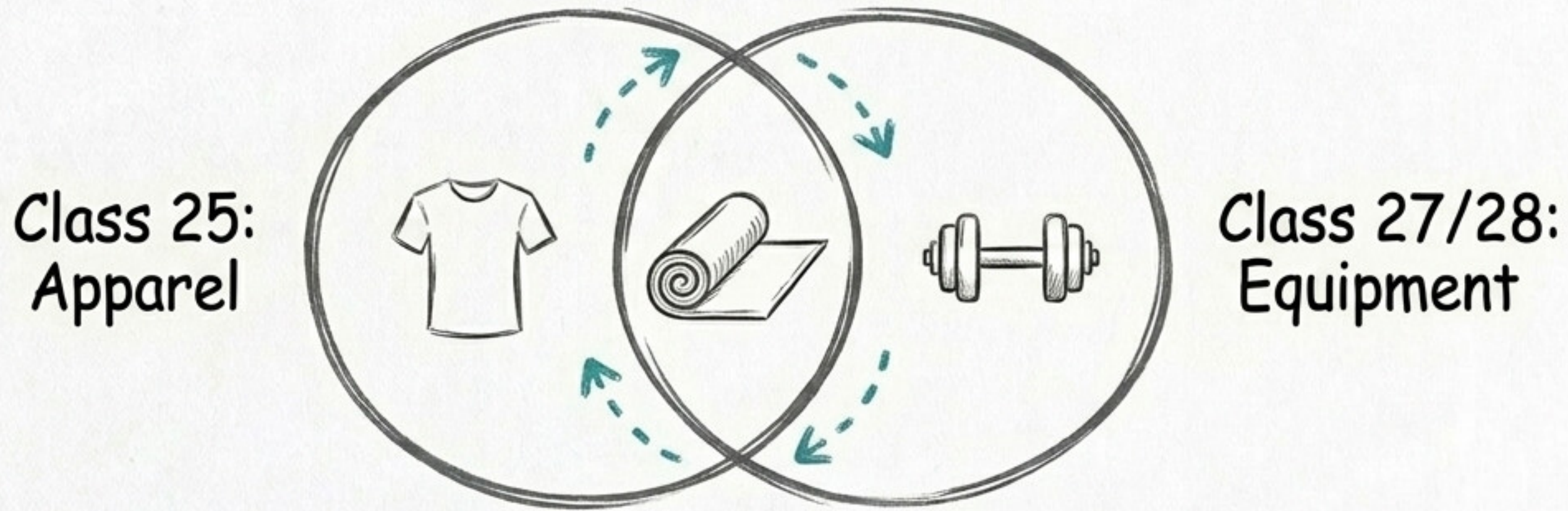
Issue 2: The Distributor Network Evidence



Taiwanese consumers successfully ordered goods bearing the "USA PRO" mark via UK distributors: "Sports Direct" and "House of Fraser".

- ✓ Verified actual invoices submitted.
- ✓ Items actually purchased: Training apparel, sports bras, leggings (Class 25).
- ✓ Items browsed simultaneously on the same sites: Sports shoes, dumbbells, yoga mats (Classes 27, 28).

Court's Finding: "The Yoga Connection"



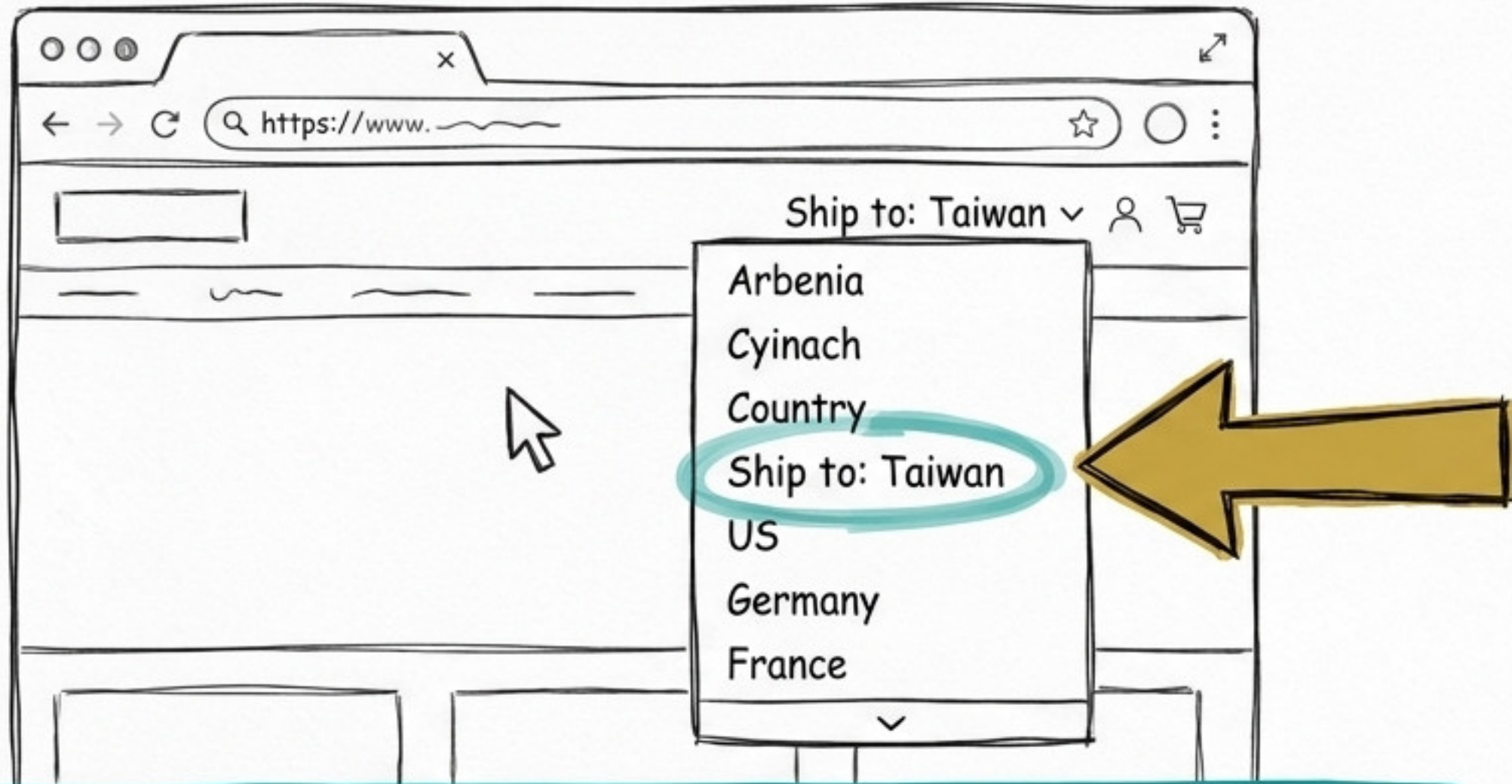
Step 1: Consumers browse yoga apparel (Class 25).

Step 2: They simultaneously encounter yoga mats (Class 27) and dumbbells/bands (Class 28) on the identical site.

Step 3: These items share identical professional purposes, marketing channels, and target consumer groups.

Verdict: They are recognized as "Goods of the Same Nature." Valid use extends to these specific yoga/sports equipment categories, even if direct equipment purchases were not explicitly recorded.

Issue 3: The ".uk" Official Website Evidence

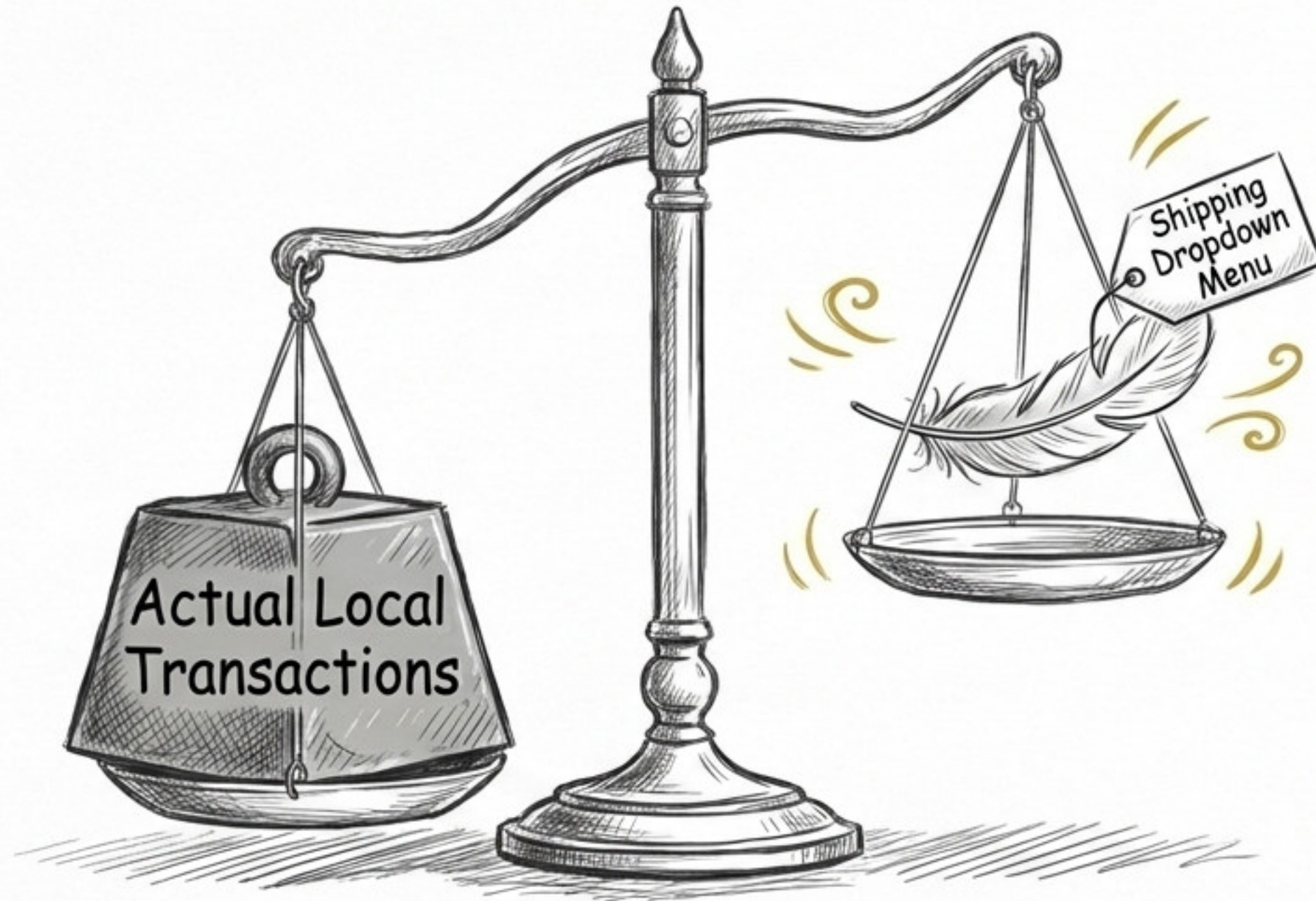


Plaintiff's Claim: The official "USA PRO" website includes "Taiwan" in its global shipping drop-down menu. Therefore, we possess intent to market to Taiwanese consumers for all other registered general goods (bags, hats, toys).

Fact Check:

- **Domain:** .uk (Not .tw)
- **Language:** English only (No Traditional Chinese)
- **Currency:** No NTD pricing available
- **Transactions:** ZERO actual transaction records to Taiwan from this specific official site.

Court's Finding: No Local Marketing Intent



The Principle of Territoriality:
"Marketing Intent" must be judged objectively by the actual "transaction process" within the domestic territory.

- The target audience of the .uk site is objectively English-speaking foreign consumers.
- A global shipping option is merely a convenience for foreigners, not proactive marketing directed at Taiwan.

Verdict: Without actual sales records or localized marketing (language/currency), there is no genuine use in commerce for the remaining general goods.

The Final Judgment Matrix



Protected (Revocation Canceled)

Category: Specific Yoga & Fitness Gear

- Class 25: Gym shoes, sports shoes.
- Class 27: Yoga mats, sports mats.
- Class 28: Dumbbells, resistance bands, kettlebells.

Legal Rationale: Proven distributor sales + "Same nature of goods" synergy.



Revoked (Revocation Upheld)

Category: General & Unrelated Items

- Class 18: Leather goods, bags.
- Class 25: Socks, general hats, winter gloves.
- Class 28: General toys, skateboards, fishing gear.

Legal Rationale: No actual domestic sales + A global website dropdown is legally insufficient.

Judgment's Highlights & Strategic Takeaways



1. Minor Omissions are Safe

Dropping unpronounceable, visually minor design elements (like color bars) during actual use does not void the trademark, provided the core-identifying text/logo remains prominent and unchanged.

2. Context and Use Matters



If goods share a highly specific professional purpose (e.g., Yoga), consumer base, and sales channels, proving actual use for one can legally establish use for the others within the same ecosystem.

3. A Dropdown Menu is Not Enough



Under the principle of territoriality, simply listing Taiwan in a global shipping menu without localized language, local currency, or actual transaction records does NOT constitute valid 'Marketing Intent' in Taiwan.