

Registration
No. 01742634



The Scope of 'Medical Services' in Trademark Use

An Educational Breakdown of Trademark Cancellation & 'Equivalent Nature'

Source: Intellectual Property and Commercial Court, 2023
Administrative Trademark Suit No. 41 (Date: August 3, 2024)

Action: Cancellation Action (Non-Use)
Plaintiff: Trademark Owner
Defendant: Intellectual Property Office (TIPO)
Intervenor: Third-Party Applicant

Class 44

新月

註冊第 01742634 號

第44類: 醫療; 醫院; 遠距醫療服務
治療服務; 診所; 物理治療;
護理; 健康諮詢; 醫療諮詢。

Medical services

~~Hospitals~~

Telemedicine services

Treatment services

~~Clinics~~

~~Physical therapy~~

~~Nursing~~

~~Health consulting~~

Medical consulting

Animal medical services

Veterinary services

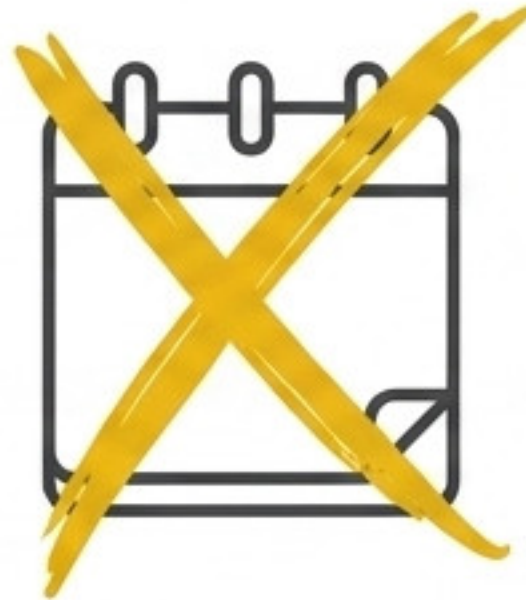
→ The
Contested
Services.

The Legal Standard for Cancellation

Trademark Act, Article 63, Paragraph 1,
Subparagraph 2.



Registered
Trademark



No continuous
use for 3 years



**Subject to
Cancellation**

The Burden of Proof — The trademark owner must prove genuine use of the mark within the 3 years immediately preceding the cancellation application.

Source Identifier
(Valid Trademark Use)

Dali Jen-Ai Hospital - Surgical
Consent Form & Medical Info Sheet
(Dates: May 20, 2019 & Jan 6, 2020).

新月微創手術
(Crescent Minimally
Invasive Surgery)

Generic Service Name

Court Finding: Adding a generic surgical term does not dilute the trademark.
The mark 'Crescent' clearly functions to identify the source of the medical service.

The Clash over "Medical Services"

The Narrow View



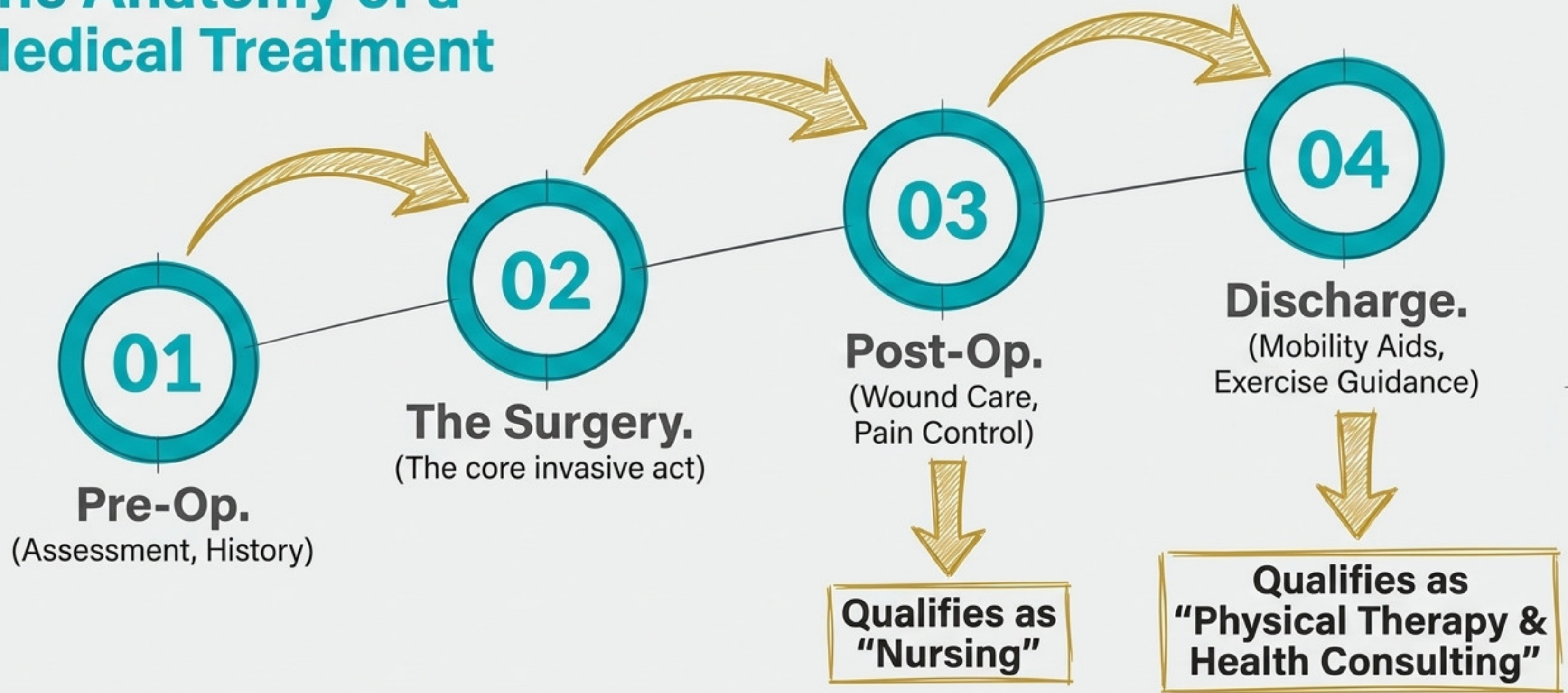
The physician **ONLY** performed surgery. Surgery is fundamentally distinct from physical therapy, nursing, and health consulting. Different professional fields = Different services.

The Holistic View



Physical therapy, nursing, and health consulting are inseparable, continuous parts of a physician's holistic professional treatment.

The Anatomy of a Medical Treatment



The Court ruled these activities are NOT separate services, but an indivisible part of the physician's medical treatment process.

The Inseparable Locus of Care

A Hospital is a Place,
not an Action.



The Mandatory Locus.



By government regulation, medical physicians may **ONLY** perform medical services within registered hospitals or clinics.

There is an inseparable, inherent connection between the act of medical treatment and the facility. They cannot be artificially separated in trademark evaluation.

The IP Framework: "Equivalent Nature"

Rule: If a trademark is used on a specific service, it is recognized as used for other registered services within a reasonable scope of equivalent nature.

Same professional technology?	
Same purpose and function?	
Satisfies the same consumer need?	
Common commercial transaction habits?	

TIPO's initial categorization was ruled "too narrow." The services possess an overlapping, superior/subordinate relationship driven by commercial reality, not just administrative classification.

The Final Judgment

The original administrative decision canceling the trademark for "Hospitals; clinics; physical therapy; nursing; health consulting" is REVOKED.



Key Takeaways & Implications

01



Context is Key for "Use"

Adding generic procedural terms (like "Minimally Invasive Surgery") to a registered mark ("Crescent") does not negate its primary function as a Source Identifier.

02



Reality Over Rigid Classes

Courts examine the actual commercial reality of a service. Post-op care and physical therapy are integral to surgical services, satisfying the "Equivalent Nature" doctrine.

03



Inseparable Geographic Links

Medical services and the mandatory legal locations where they are provided (Hospitals/Clinics) share an indivisible relationship. Proof protects the facility's registration.