



HERBAL
EVIDENCE



The Anatomy of a Packaging Dispute

A Case Study on Commissioned Work,
Copyright, and Indictment Boundaries



Source: Intellectual Property and Commercial Court Criminal
Judgment 112-Xing-Zhi-Shang-Yi-21 (2024-01-31)



The Plaintiff:
Pinjing Technology Co., Ltd.

Role: Distributor &
Packaging Designer

Plaintiff's
Claim



The Defendant: Zhan Zhicun /
Venice Pharmaceutical Co., Ltd.

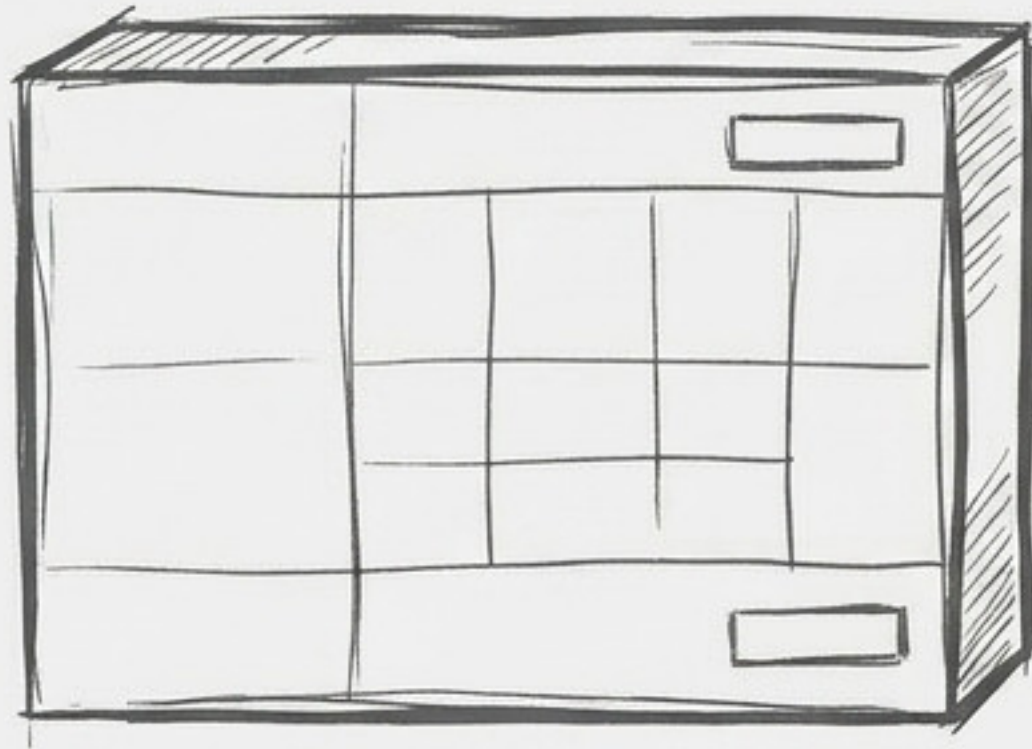
Role: Manufacturer &
Asset Originator

Defendant's
Defense

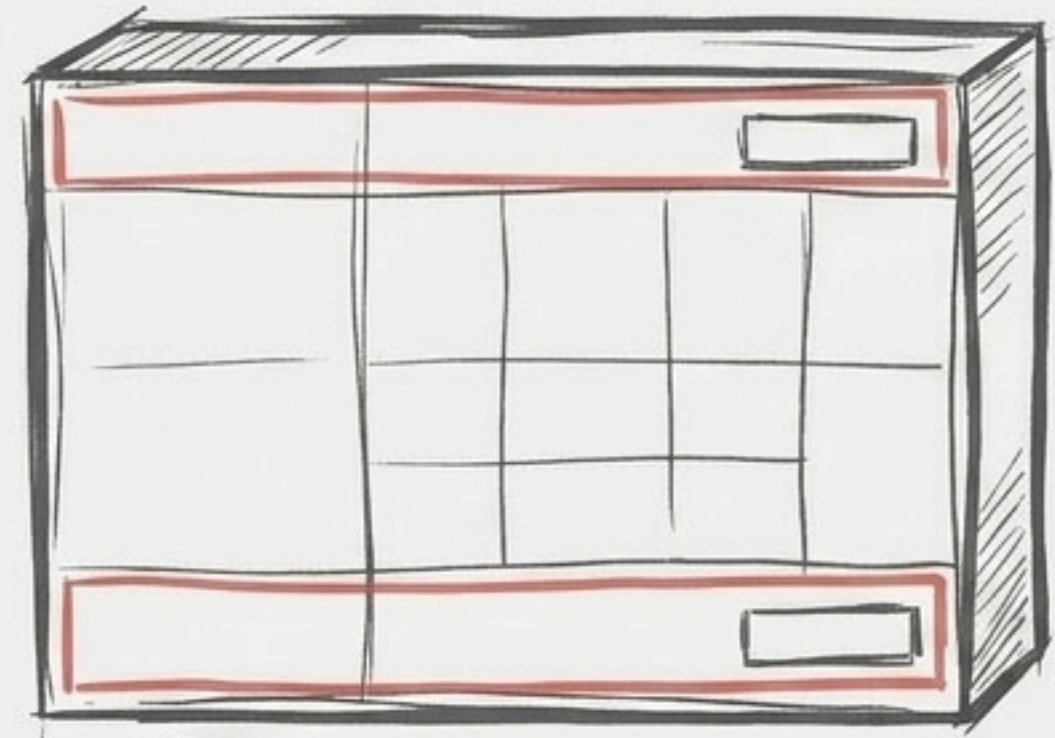


The Core Question: Did the manufacturer commit
illegal Reproduction and Infringement, or were they
legally utilizing a commissioned design?

The Act of Reproduction



Original:
Created by Plaintiff.



Modified.

Removed Plaintiff's
distributor info.

Added "Kinmen" text.

The Court's View: The overall concept, color, and layout remain identical. Under the Copyright Act, this constitutes Reproduction, not the creation of an independent Adaptation.

Plaintiff's Accusation vs. Defendant's Reality

- Defendant is merely an OEM manufacturer.

- They had no right to sell the product or modify the packaging.

- They violated the Economic Rights of our copyright.

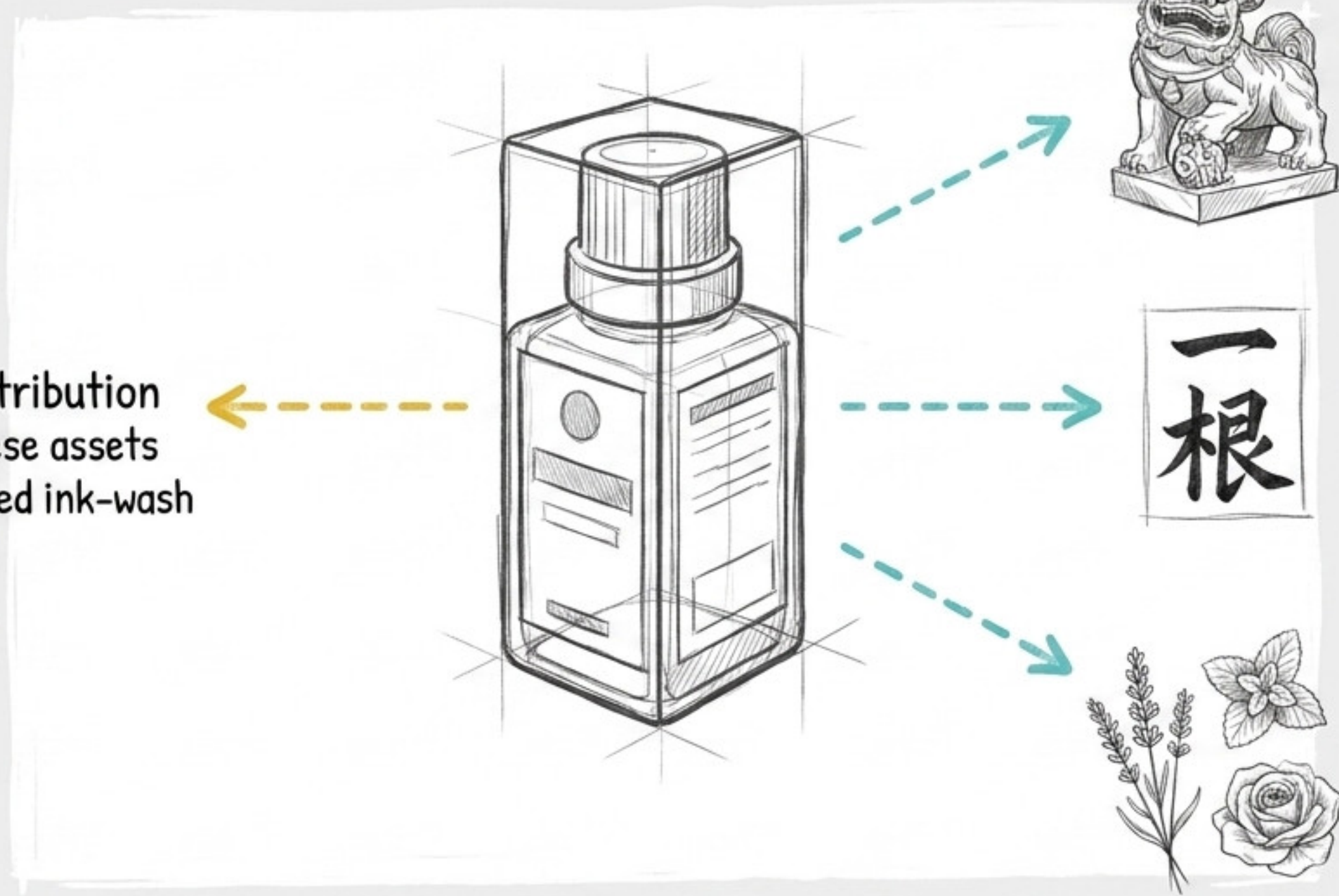
- I provided the original design assets in 2012.

- I compensated you with 1,000 free products to finalize the design.

- We explicitly agreed I could co-sell when your sales dropped.

Tracing the Creative DNA

Plaintiff's Contribution
→ Arranging these assets into a black/red ink-wash style layout.



Kinmen Wind Lion
God image
→ Provided by
Defendant.



Calligraphy for
"One Root"
→ Commissioned by
Defendant.



Herbal photograph
(Lavender, Mint, Rose)
→ Provided by
Defendant.

Applying the Copyright Act

Step 1: Defendant provides raw visual assets.



Step 2: Defendant pays Plaintiff with 1,000 free patches for design work.



Step 3: Plaintiff designs the final packaging (Becomes the Author)



The Legal Truth:

Because there was no explicit contract assigning Economic Rights, the Plaintiff holds the copyright. HOWEVER, under Article 12, Paragraph 3 of the Copyright Act, the Defendant (commissioner) is legally permitted to utilize the work for the intended purpose of their investment (selling the patches).

Debunking the "OEM Only" Myth



Evidence 1 (Contract):

- Explicitly states Plaintiff is the "Agent" for the Defendant's products.

Evidence 2 (Packaging Text):

- The front explicitly prints "Venice Pharmaceutical | Manufactured in Taiwan".
- The back lists Plaintiff merely as "General Distributor".

Conclusion:

The Defendant was never a mere OEM. They were the principal originator utilizing their commissioned work.

The Plot Twist: The Trademark Trap



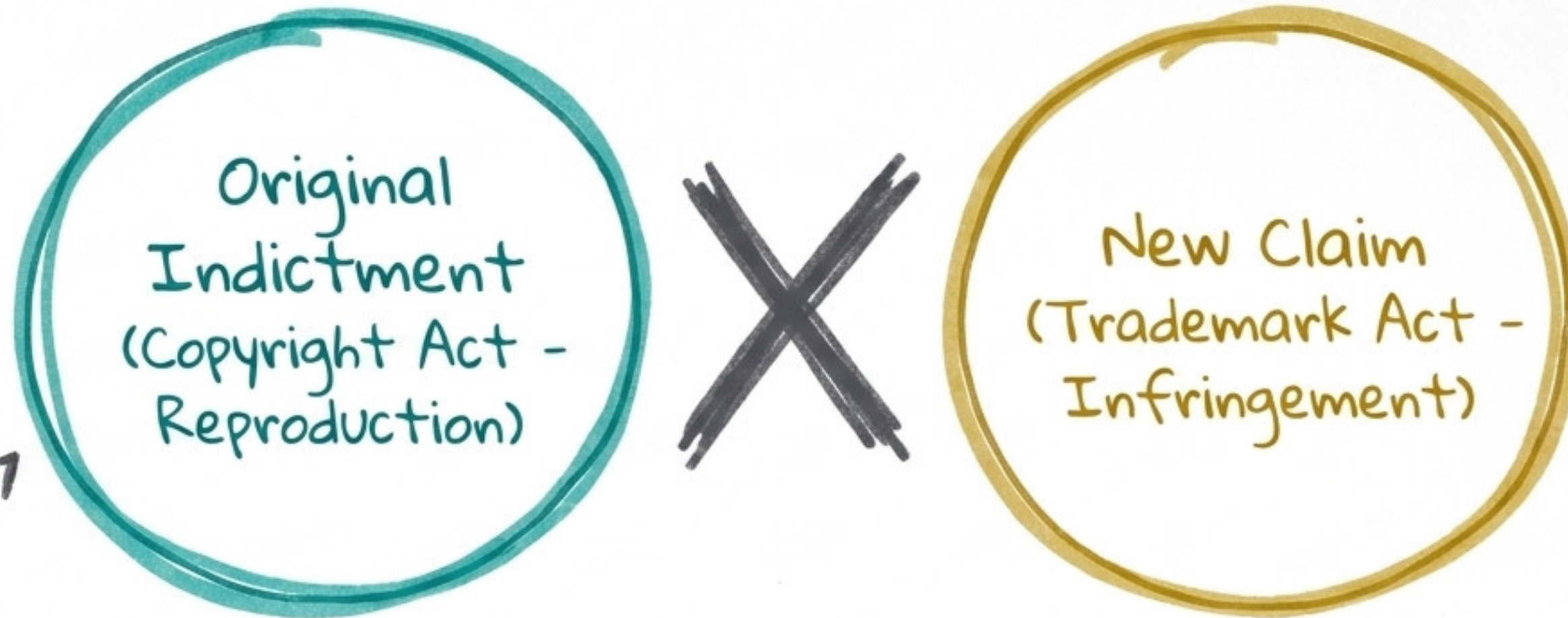
The Late Move:

"Even if the copyright claim fails, they used our Taiwan Jingzuan trademark! They violated the Trademark Act!"

The Context:

The Prosecutor attempted to appeal the ruling by introducing a completely new trademark infringement claim that was never in the original trial.

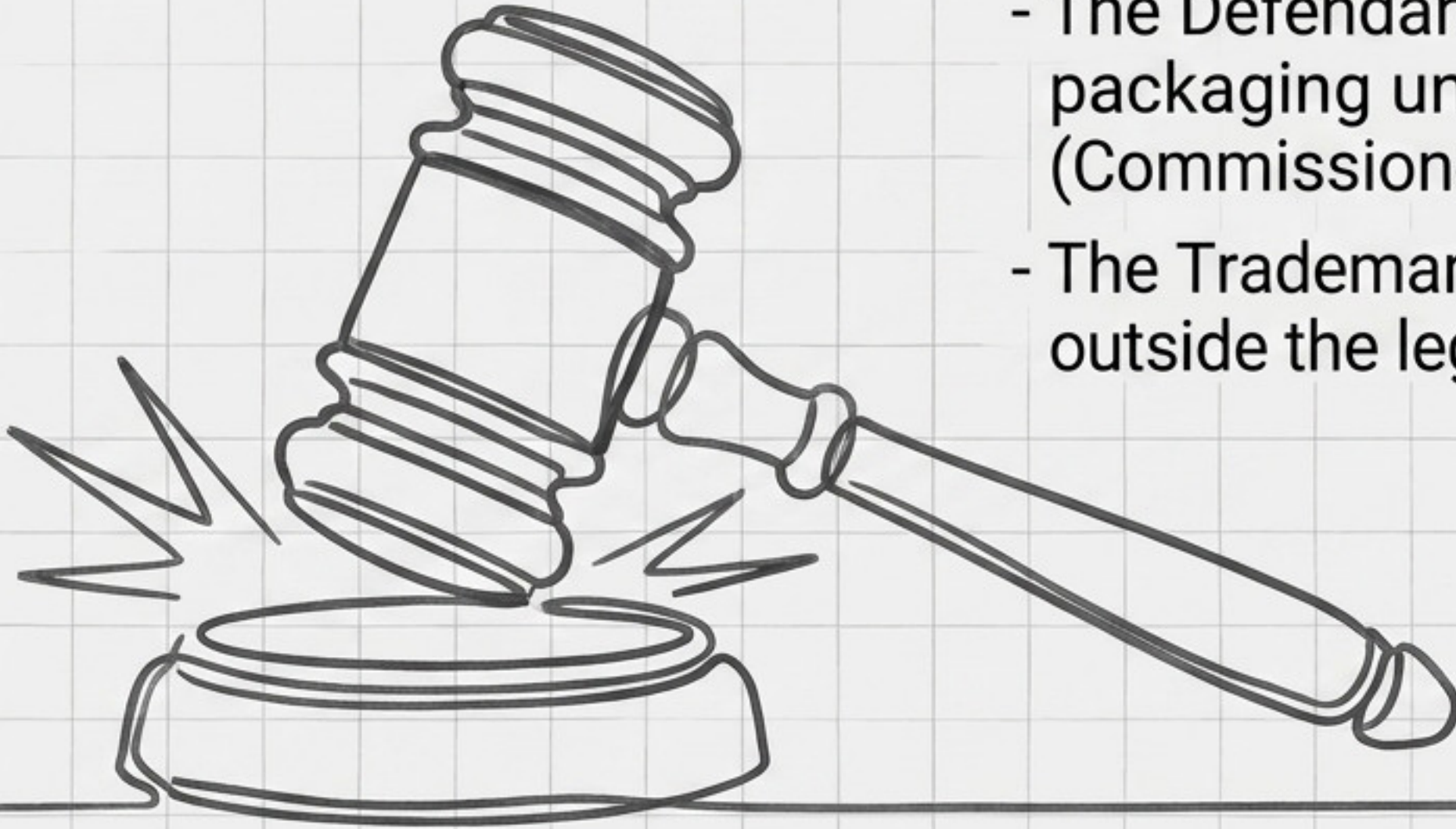
The Boundaries of an Indictment



The Rule: Under the Code of Criminal Procedure, courts cannot judge unindicted crimes.

The Finding: The two charges lack Identity of Facts—they are fundamentally different social actions with different legal elements. The Court rejects the trademark claim entirely.

The Judgment



- The Defendant legally utilized the packaging under the Copyright Act (Commissioned Work).
- The Trademark Act violation fell entirely outside the legal scope of the Indictment.

Verdict:

Not Guilty.

Appeal Dismissed.

Case Summary & Strategic Insights



Commissioned Works: If you pay for a design, Article 12 of the Copyright Act protects your right to use it for its intended investment purpose, even if you don't own the Economic Rights.



Contract Clarity: Always explicitly define the ownership of Economic Rights in your agreements to avoid years of litigation.



Procedural Limits: In criminal IP cases, the Code of Criminal Procedure strictly limits trials to the original Indictment. You cannot retroactively squeeze a trademark dispute into a copyright trial if they lack Identity of Facts.

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