

CONFIDENTIAL

Anatomy of a Trademark Dispute: The Qiao Jin Gong Case

Decoding Bona Fide Prior Use &
Descriptive Fair Use in Retail Jewelry

Intellectual Property and
Commercial Court
Case No. 113 Min-Shang-Shang 20
Year: 2024



THE PLAINTIFF / APPELLEE

- Name: Shi (Founder of Qiao Qiao Jin Gong)
- Claims: 15 years of brand operation, physical stores, and craft courses.
- Legal Posture: Filed a lawsuit to block the Defendant from using a similar name.



THE DEFENDANT / APPELLANT

- Name: Zhan (Qiao Jin Gong Jewelry Co., Ltd.)
- Claims: Used the Qiao Jin Gong name since 2009, long before the Plaintiff's registration.
- Legal Posture: Appealed the first-instance ruling, claiming Bona Fide Prior Use.



Source: First Instance Judgment 113 Min-Shang-Su 7 overturned by Second Instance 113 Min-Shang-Su 20.

Exhibit A: The Visual Evidence

Gold Zone
(Plaintiff/Antagonist)

敲敲金工

註冊第02157959號
第 14 類：手環；手鍊；耳環；戒指；首飾；珠寶裝飾品；貴重金屬；貴重金屬小雕像；貴重金屬製鑰匙圈；項鍊；墜子；袖扣；紀念牌；手錶；腕錶；項鍊錶；腳鍊；胸針；隨身小飾物（珠寶品）。

Registered
Classes
14 & 35.
Valid
2021-2031.

Teal Zone
(Defendant/Protagonist)

敲敲金工
CIAOJEWELLERY

Application
rejected by
IP Office,
but used in
commerce
for years.

Issue 1: The Timeline Race

Trademark Act 36(1)(4)
- Bona Fide Prior Use

Jan 2022:
Defendant formally
changes company
name to Qiao Jin
Gong Jewelry Co.,
Ltd.

2005 - 2009:
Defendant begins
using Qiao Jin
Gong on metal
crafts.

2016 - 2020:
Defendant
expands use to
signage, jewelry
boxes,
exhibitions, and
digital ads.

March 2021:
Plaintiff officially
applies for the
disputed
trademark.

Verdict: Defendant
used the mark for
over a decade prior to
Plaintiff's application.
Prior use stands valid.

Issue 2: The Well-Known Threshold

Trademark Act 70(2)

Plaintiff claims mark
is Well-Known



The Court's Evidence Gate

- ☐ Proof of High Sales Volume?
- ☐ Significant Market Share Data?
- ☐ Established Brand Value Metrics?
- ☒ Promotional Flyers Only.



**Court Finding: Promotional
materials alone do not
equal a Well-Known Mark.
Claim dismissed.**

Issue 3: The Ghost of the Deleted Law



Plaintiff attempts to use an analogy to current Article 70(2) to punish the Defendant.

This article was deliberately deleted in 2011 to prevent trademark trolls from sending frivolous cease-and-desist letters regarding company names.

The Court's Block:
Allowing an analogy would revive a deliberately destroyed law. The Defendant's company name is perfectly legal.

Issue 4: The Valentine's Alibi

Trademark Act 68(3) - Descriptive Fair Use



Perfect Valentine's Gift!
#Love #CHOCCY #Rings

Plaintiff claims trademark infringement of their registered CHOCCY mark.

Defendant argues Choccy is just slang for chocolate.

The Context Lens:

Used during Valentine's Day, Choccy is a descriptive word for a holiday element (chocolate/love), not an indicator of brand source. No infringement.

The Final Verdict



The Reversal

Second Instance Court (Case 113 Min-Shang-Shang 20) fully overturns the First Instance ruling against the Defendant.

The Victory

Qiao Jin Gong Jewelry Co., Ltd. is completely free to use its name and mark based on Bona Fide Prior Use.

The Costs

The Plaintiff bears the financial burden and court costs for both the first and second instance lawsuits.

Precedents & Strategic Takeaways

1. Document Everything

Bona Fide Prior Use is a powerful shield, but it requires an unbroken paper trail of commercial use predating the rival's application.

3. Context is King

Using a competitor's trademarked word is legally defensible (Art. 68) if it is purely descriptive of the event or product.

2. Fame Requires Data

Claiming a Well-Known Mark (Art. 70) requires hard math—market share, sales volume, and valuation—not just promotional flyers.

Case Study closed.
Always consult legal counsel.