

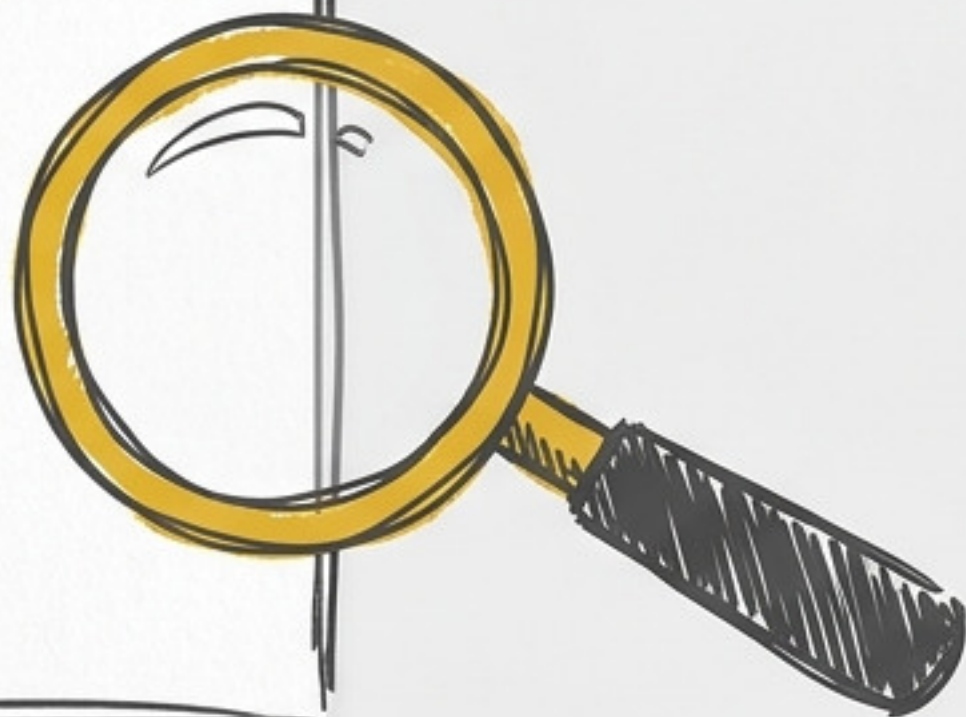
Company Name vs. Trademark

A Legal Analysis of Deemed Infringement and Likelihood of Confusion

Intellectual Property and Commercial Court,
Civil Judgment
113 Min-Shang-Su-Zi No. 7 (2024)

An educational breakdown of the boundaries between corporate registration and trademark protection.

Source: Analysis
of Judgment,
October 2024.



The Plaintiff

敲敲金工

註冊第 02157959 號

第14類: 手環; 手鍊; 耳環; 戒指; 首飾;
珠寶; 珠寶裝飾品; 貴重金屬; 貴重金屬小雕
像; 貴重金屬鑲嵌圈; 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 (珠寶飾品)。

註冊第02159482號

第 35 類: 首飾零售批發; 貴重金屬零售批發
; ... ; 藉由網路提供商品交換之仲介服務。

註冊第 02150719 號

第 41 類: 函授課程; 技術知識轉移
(培訓); 技藝訓練班; 培訓服務; 教育服務
; ... ; 導覽服務。

Registered Trademarks: "Chiao Chiao Kin Kung"
Classes 14, 35, 41
Sells jewelry, rings, and retail/training services.

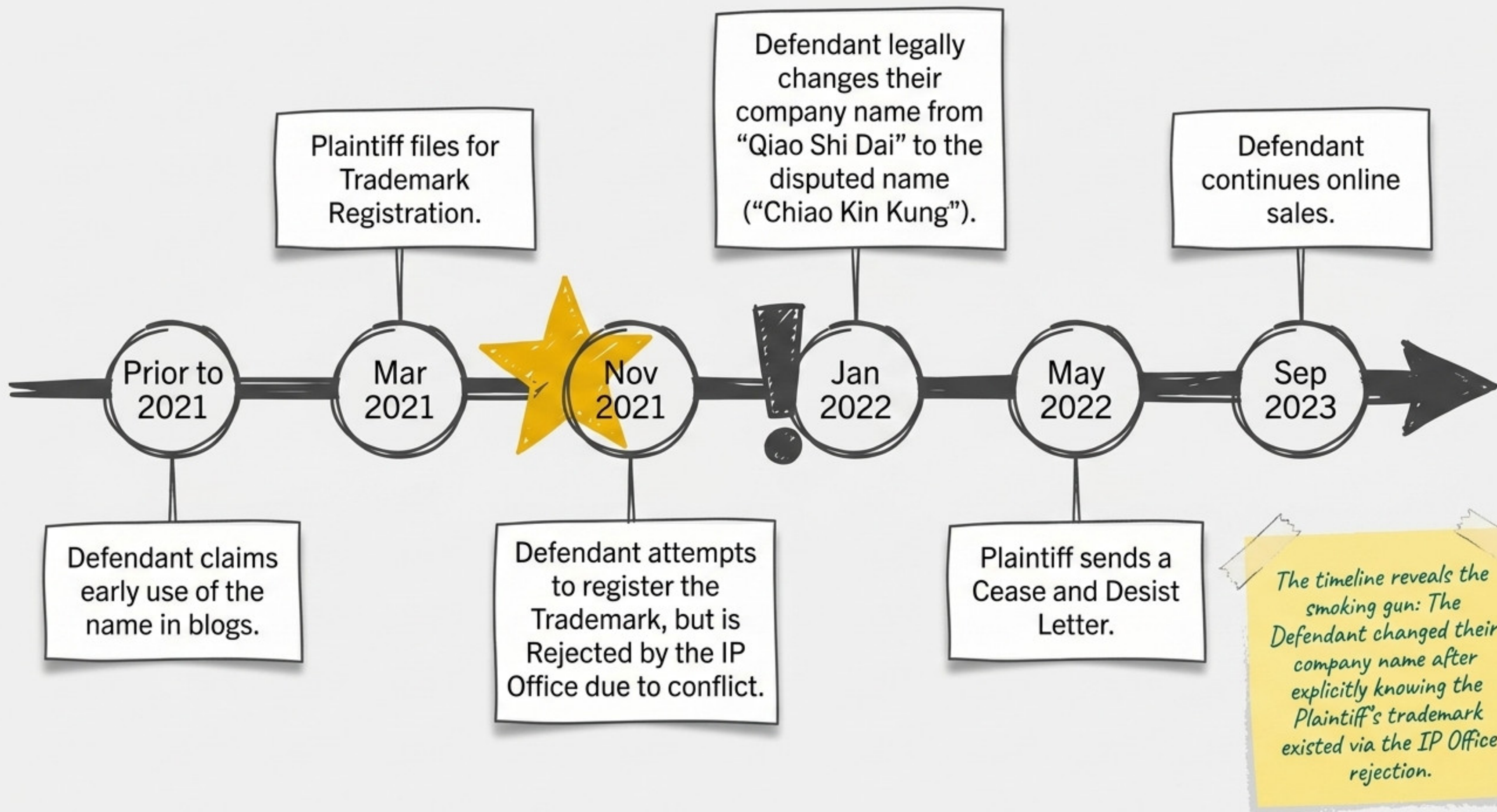
The Defendant



Mark/Name: "Chiao Kin Kung" (Used as
Company Name & Online Store)
Sells highly similar rings on Pinkoi and blogs.
Original company name was "Qiao Shi Dai Co., Ltd."

The Core Question:

*Does registering and using a highly similar text as a
Company Name constitute Trademark Infringement?*



Company Name

Purpose: Identify the corporate entity.

Defense: Defendant claims they are just using their legal name.

Trademark

Purpose: Indicate the source of goods/services to consumers.

Deemed Infringement

The Applicable Law:

- Trademark Act Article 68, 69: Trademark Infringement
- Trademark Act Article 70(2): Deemed Infringement
- Trademark Act Article 36(1): Fair Use / Good Faith Prior Use

Step 1: The 'Famous Trademark' Hurdle

The Claim:

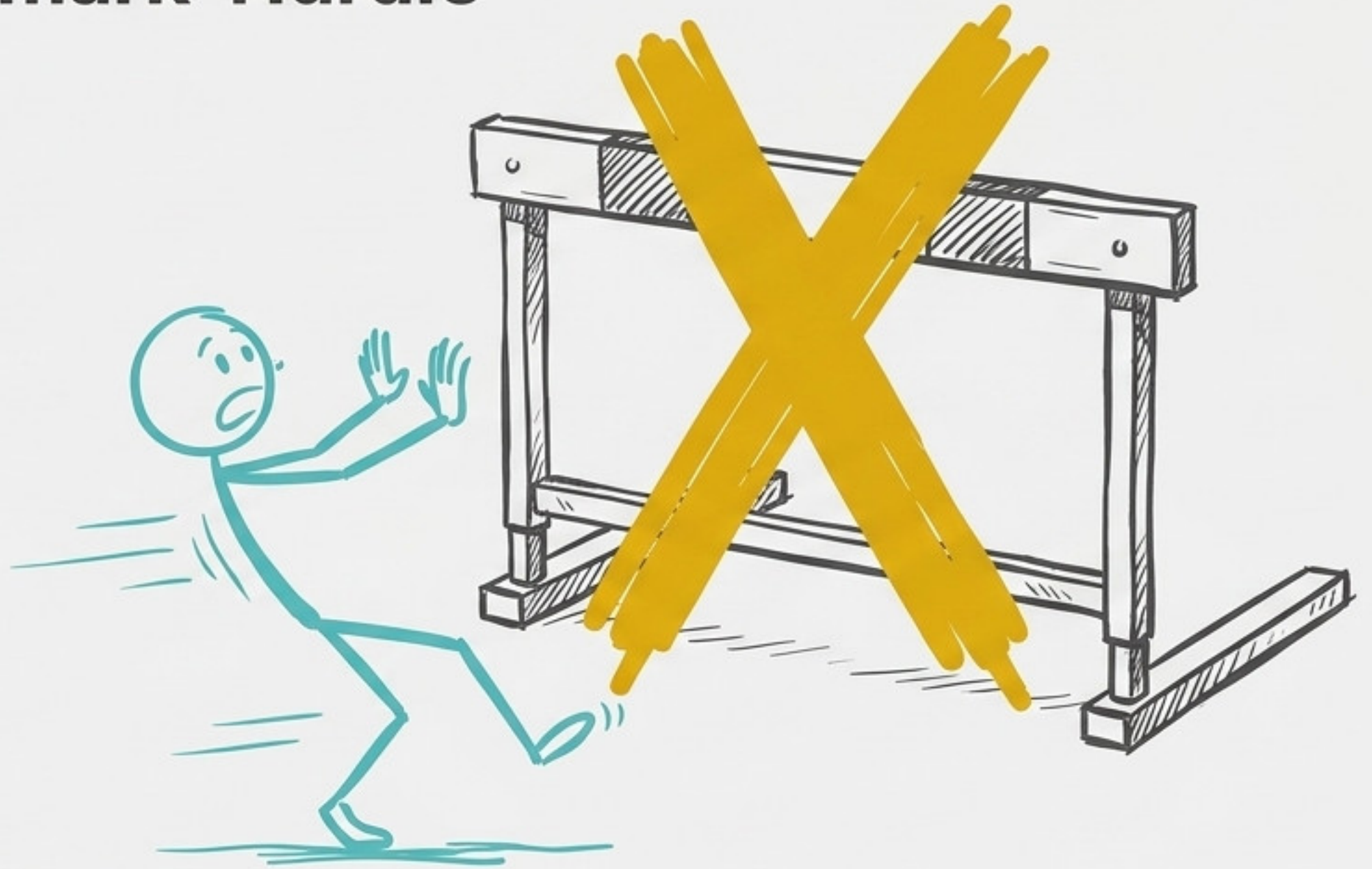
Plaintiff argued the Defendant violated Article 70(2) of the Trademark Act, which strictly protects Famous Trademarks from being used as company names.

The Ruling:

NO.

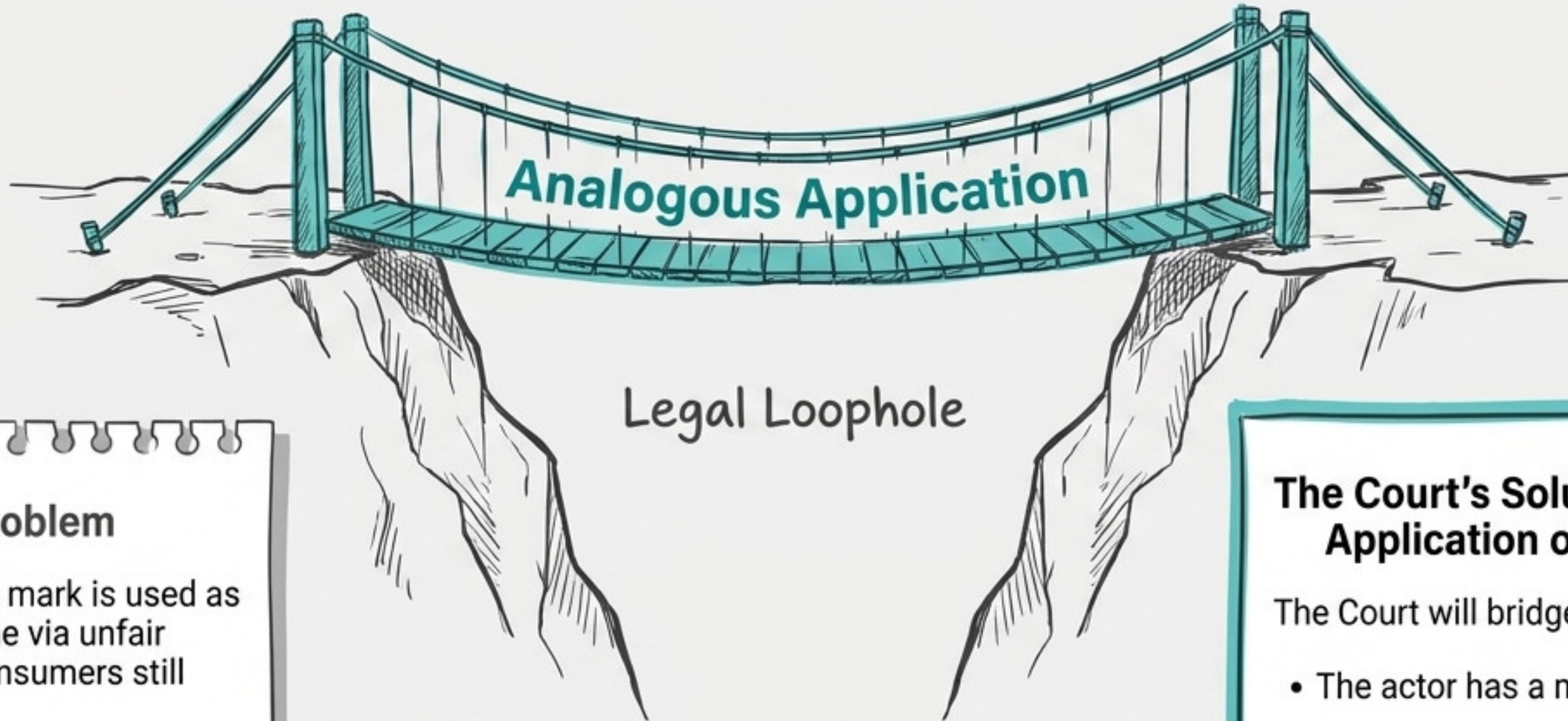
The Reason:

The Plaintiff failed to provide objective evidence proving the mark was widely recognized by relevant businesses or consumers.



If it's not a Famous Trademark, does the Defendant automatically win? No. The Court found a legal bridge...

Step 2: Bridging the Legal Loophole



The Problem

If a non-famous mark is used as a company name via unfair competition, consumers still get confused.

A strict, literal reading leaves a loophole for bad-faith actors.

Result: It is treated as Deemed Infringement, allowing the owner to seek an Injunction.

The Court's Solution: Analogous Application of Article 70(2)

The Court will bridge the gap IF:

- The actor has a marketing intent. ✓
- It is done without the trademark owner's consent. ✓
- It results in a Likelihood of Confusion among relevant consumers. ✓

Step 3: Proving "Likelihood of Confusion"

1. Similarity of Marks

"Chiao Chiao" vs. "Chiao". Only one character difference. Identical in concept, sound, and appearance.

2. Similarity of Goods

Both parties sell rings and jewelry. Both utilize identical marketing channels (online/Pinkoi).



3. Actual Confusion (The Smoking Gun)

Real consumers physically walked into the Plaintiff's Hsinchu retail store holding the Defendant's products, asking for repairs.

The Court confirmed a high Likelihood of Confusion exists between the two entities.

Step 4: Why the 'Fair Use' Defense Failed

The Defense:

Defendant invoked Article 36(1) of the Trademark Act (Good Faith Prior Use), noting a prosecutor previously dropped criminal charges.



The Court's Rebuttal:

- ✗ Criminal non-prosecution does not bind civil courts.
- ✗ "Good Faith" requires acting without unfair competition intent and following honest commercial practices.
- ✗ Because the Defendant purposefully changed their company name to the disputed name after being rejected by the IP office, it was definitively NOT an honest commercial practice.

The Final Judgment



1. Injunction

- The Defendant is strictly prohibited from using the disputed text as their company name.
- The Defendant must cease using similar graphics on all goods, packaging, advertising, and marketing materials.

2. Damages

- The Defendant and its responsible person must jointly pay NT\$ 336,000.
- Plus 5% annual interest calculated from December 19, 2023.

Key Points and Implications

