

Anatomy of a Reversal: Burden of Proof in Trademark Damages



An educational analysis of Supreme Court
Civil Judgment 113-Tai-Shang-274 (2024)

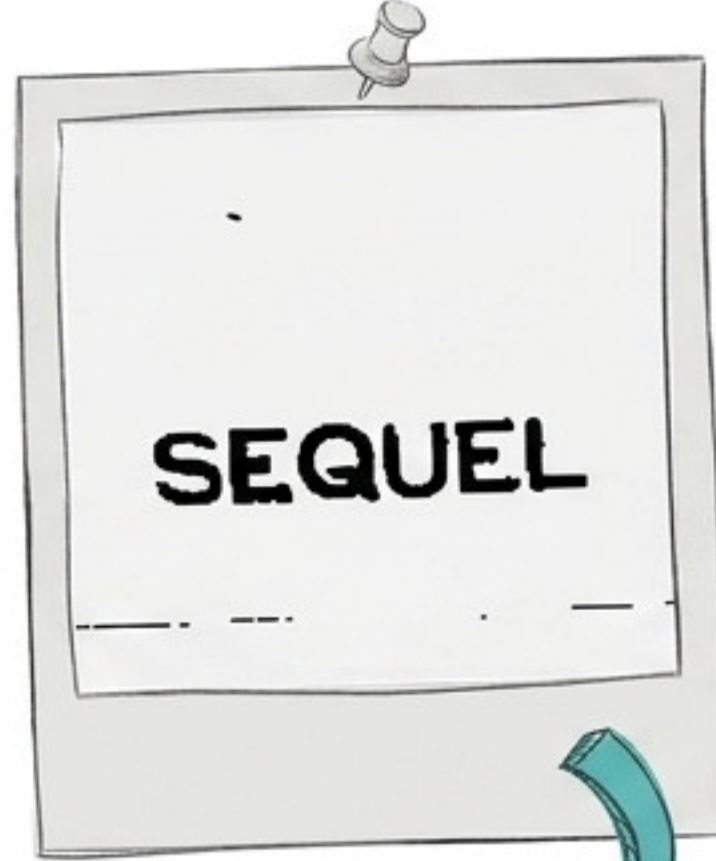


Exhibit A: The Infringed Assets

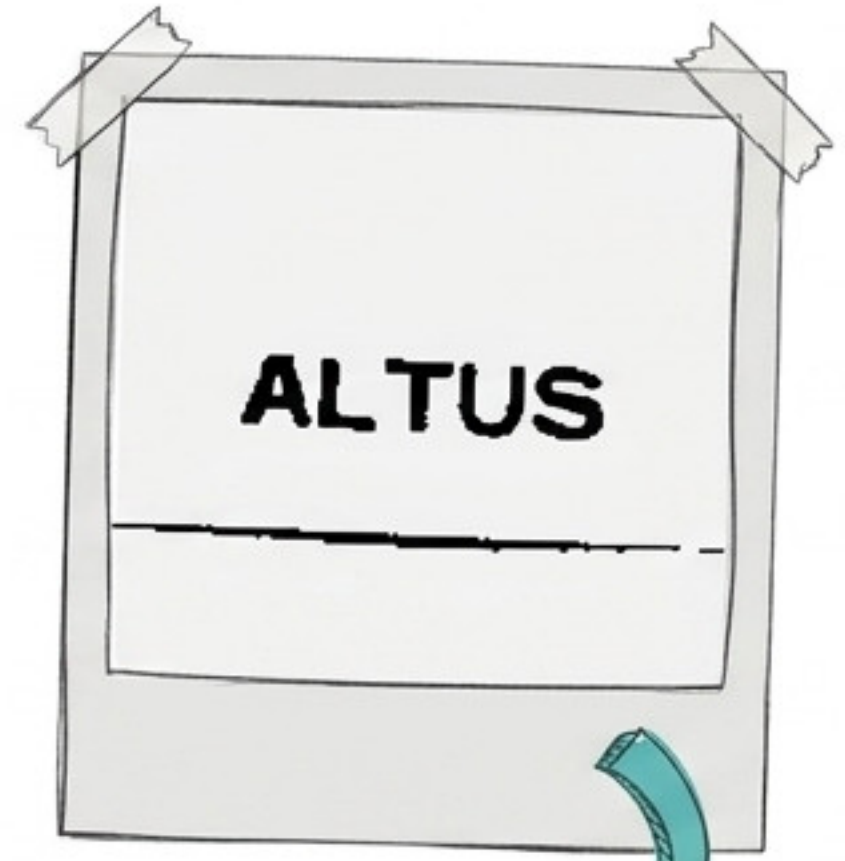
Class 7: Semiconductor Manufacturing & Chemical Vapor Deposition Equipment



LAM
(Reg. No. 01935113)



SEQUEL
(Reg. No. 00778230)



ALTUS
(Reg. No. 00778229)

The Infringement Fact: The Appellant modified these machines and sold them while illegally retaining the original trademarks.

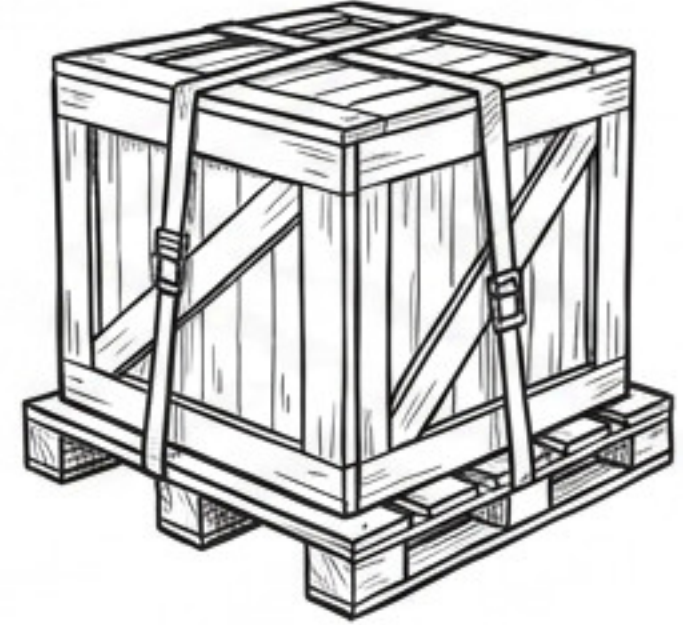
The Sequence of Events: From Scrap to Sale



Appellant acquires
used "System 5"
machines.



Replaces parts and
calibrates the
equipment.



Sold as "Novellus C2
Altus System" to SGS
Company. (Feb 19, 2021)

Export Quote: USD \$850,000 / Free
On Board (FOB): TWD \$24,080,486

The Math of Infringement: Trademark Act Article 71

Burden of Proof:
Trademark Owner

Burden of Proof:
Infringer

$$\left[\text{Gross Sales Revenue} \right] \text{ MINUS } \left[\text{Costs \& Necessary Expenses} \right] = \text{EQUALS } \left[\text{Calculated Damages} \right]$$



Under Article 71(1)(2), if the infringer cannot prove their costs or necessary expenses, the total sales revenue is deemed their total profit.

The Initial Ruling: IPCC Civil Judgment 111-Min-Ying-Shang-6 (2023)

The Logic Chain

Fact: Import declaration forms had redacted fields.



Conclusion: Appellant cannot prove the exact purchase cost of the machines.



Action: Zero costs deducted.

~~Costs & Necessary Expenses~~

**Damages Assessed
= TWD \$24,080,486
(The full FOB price)**

The Lower Court treated the entire gross revenue as pure profit, ignoring the reality of hardware refurbishment.

Two Perspectives on Profit: The Courtroom Clash

Appellee & Lower Court View

Revenue:
TWD \$24,080,486

Recognized Costs:
TWD \$0
(Dismissed due to
redacted import docs)

**Verdict: Infringer profits ~24M.
Pay the full amount.**

The Appellant's Defense

Revenue: TWD \$24,080,486

Actual Costs
(Backed by receipts):

Acquisition of 5 old machines:
TWD \$9,800,638

Refurbishment & parts:
TWD \$16,949,867



**Verdict: Total costs ~TWD 26.7M.
We operated at a loss!**

The Supreme Court Reversal: Restoring Procedural Rights

Trademark Act Art. 71



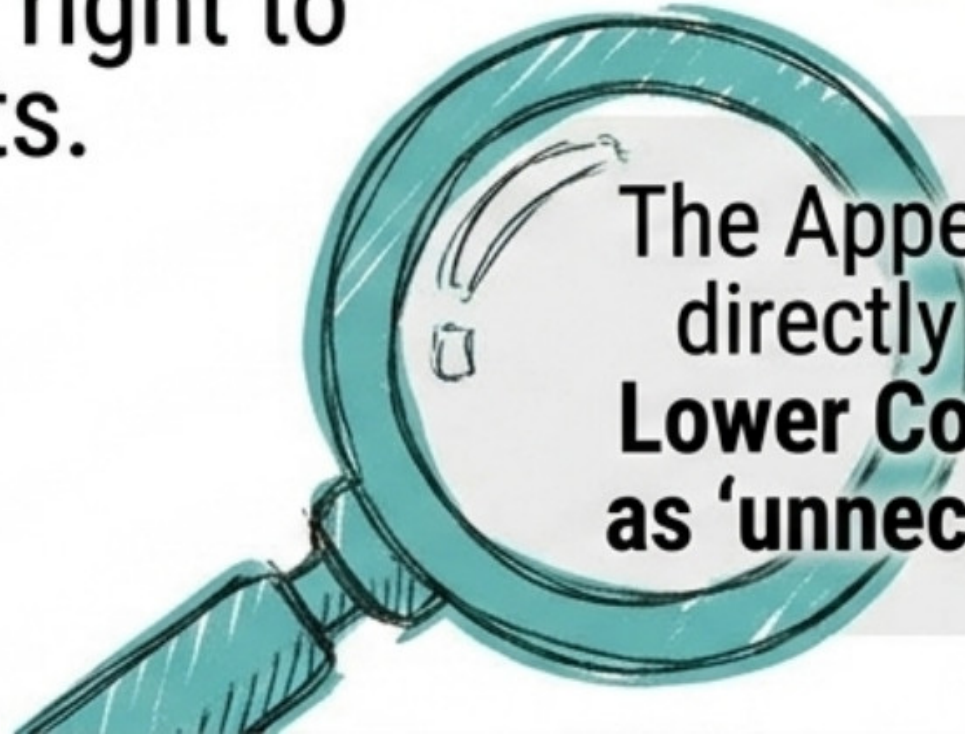
Eases the burden on the rights holder, but does **not strip** the infringer of their right to prove costs.

Taiwan Code of Civil Procedure Art. 286



Courts **MUST investigate evidence** declared by parties.

The Appellant's **TWD 26.7M** in receipts were directly relevant to calculating costs. The **Lower Court cannot arbitrarily pre-judge** them as 'unnecessary' and refuse to investigate it.



The Final Disposition



Judgment Remanded.

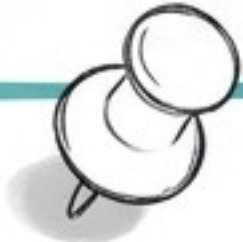
The original ruling ordering joint compensation and the mandate to cover newspaper publication costs are both overturned.

Sent back to the Intellectual Property and Commercial Court for a retrial on the facts.

“ The Supreme Court: **The actual amount of damages remains unclear.** The lower court must properly **investigate the submitted receipts and recalculate the deductible expenses.** ”



Executive Summary & Strategic Insights



Revenue Presumption is Not Absolute

Under Trademark Act Art. 71, while gross sales default to profit, infringers retain the right to deduct proven costs. Courts cannot default to the FOB price if actual cost evidence exists.



Procedural Rights Matter

Under Civil Procedure Art. 286, courts are mandated to investigate relevant financial evidence. Prematurely dismissing receipts as unnecessary is reversible error.



Document the Hardware Lifecycle

For secondary market refurbishers: meticulously separate and archive acquisition costs versus value-add refurbishment parts. This paper trail is the only defense against inflated gross-revenue damage claims.