

Case Study
(2024)

The Lifecycle of a Trademark: Revocation vs. Past Infringement

An Educational Analysis of
Supreme Court Civil Judgment
113-Tai-Shang-275

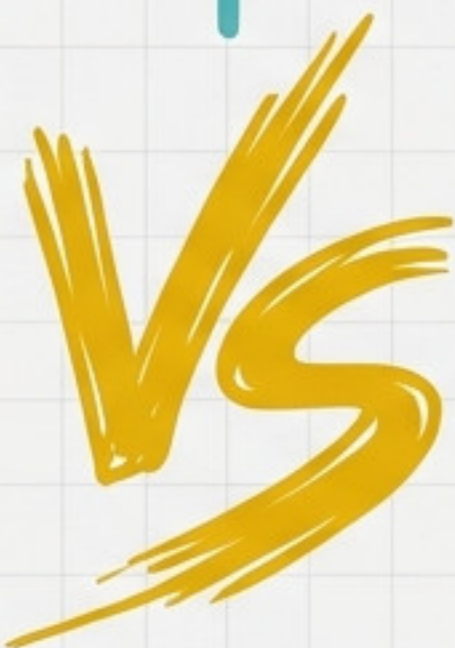
The Dispute Landscape

Role: Trademark Owner
(Appellant)

Assets: Registration No.
01428901 & 01421019

Class: Class 5 (Pesticides,
Fungicides)

Claim: NT\$ 35,000,000 in
Damages & an Injunction
against future use.

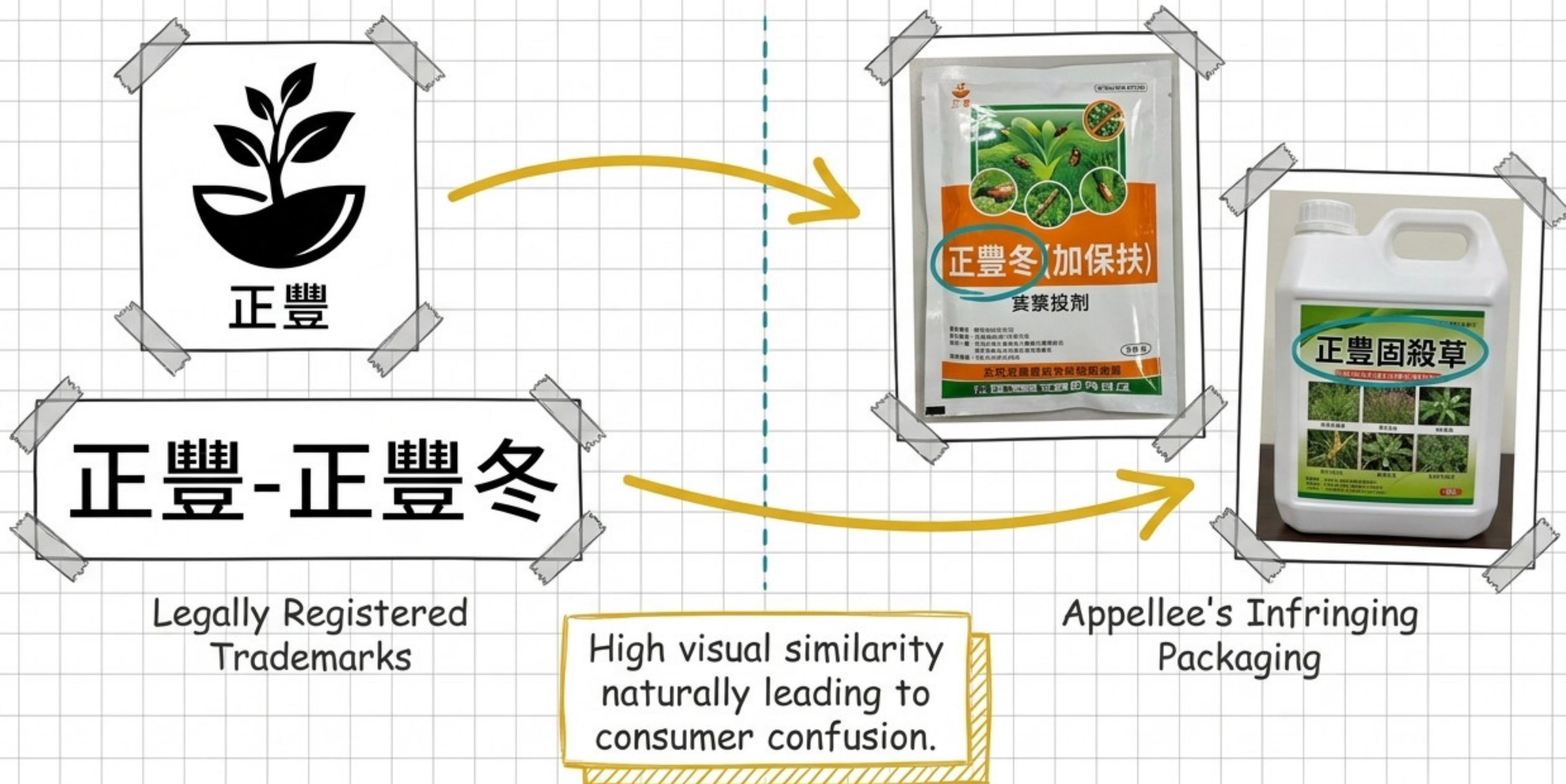


Role: Accused Infringer
(Appellee)

Action: Sold >1,500 units of
highly similar pesticide
products without
authorization.

Infringement Period: Nov
2017 – Sep 2021

Analyzing the Visual Identity



The Intersect of Infringement and Revocation

The Infringement:

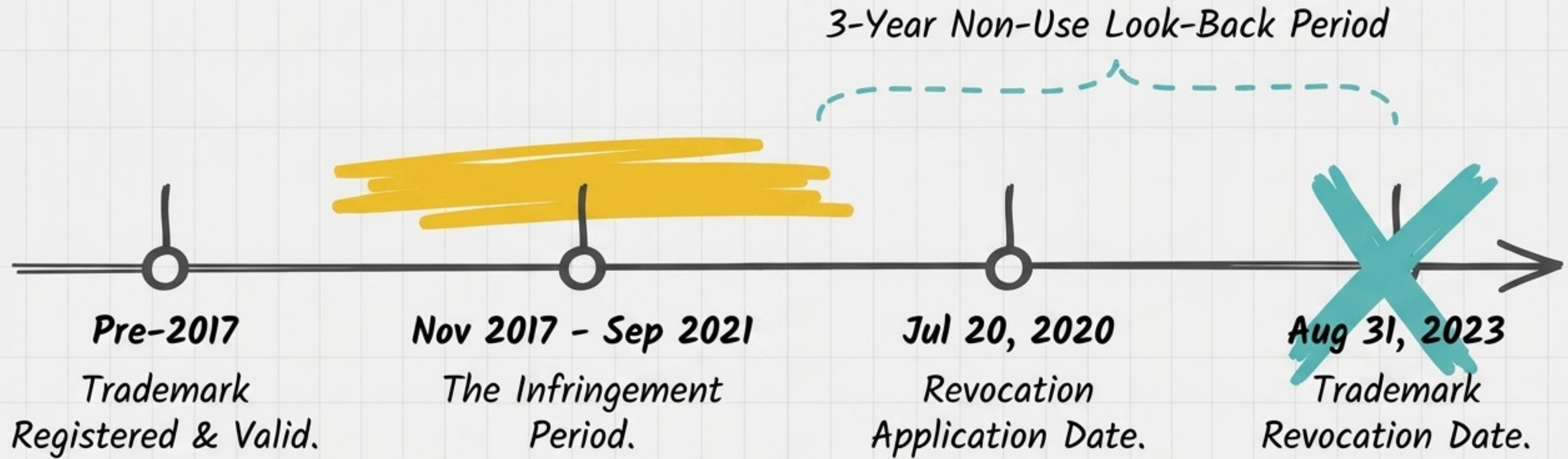
Unauthorized market use of the marks spanning from 2017 to 2021.

The Revocation:

Trademarks officially revoked on Aug 31, 2023, under the Trademark Act due to 3 years of non-use.

If a trademark is eventually revoked, does the owner legally lose the right to claim Damages for infringement that happened before the revocation?

Temporal Mapping of the Trademark Rights



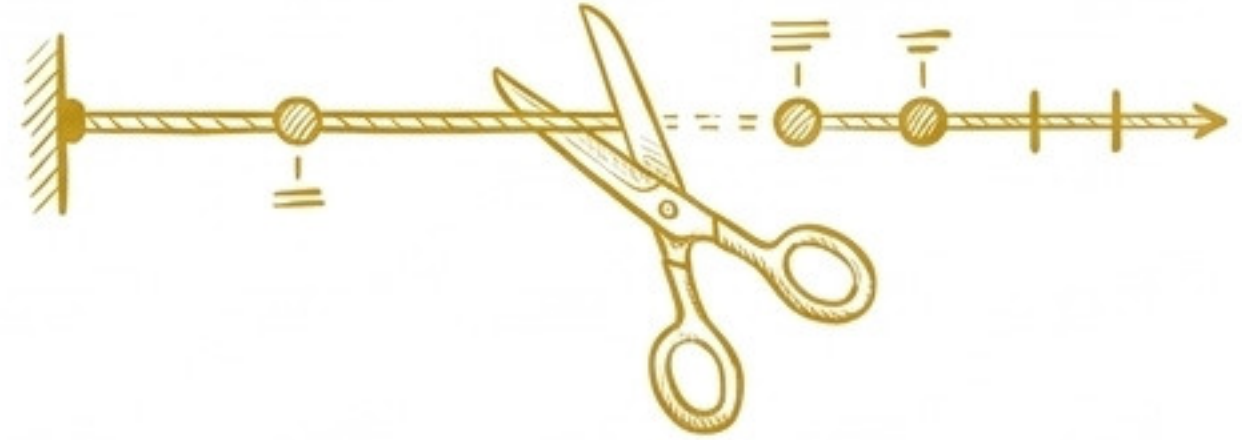
Notice the overlap: The trademark was legally active during the entire Infringement Period.

Deciphering the Legal Effect of Revocation



Retroactive Invalidation (Ex Tunc)

The trademark is treated as if it never existed. Past rights vanish.
(Doctrine rejected by the Court).



Non-Retroactive (Ex Nunc)

Pursuant to the Trademark Act and Administrative Procedure Act, revocation dissolves the registration effect only from the revocation date onward.

Conclusion: The trademark rights do not disappear retroactively.

The Split Verdict — Claim 1: Damages

Seeking Financial Restitution

The lower court erred in outright dismissing the monetary claim.

Because revocation is strictly Ex Nunc (forward-looking), the foundational right to claim Damages for infringement during the trademark's valid lifespan remains fully intact.

Status: Remanded. Sent back to the Intellectual Property and Commercial Court to investigate and calculate the precise compensation owed.

The Split Verdict — Claim 2: Injunction

Prohibiting Future Market Use

An Injunction strictly requires an actively valid trademark to enforce future prohibitions against competitors.

Appellant completely failed to prove legitimate market use of the trademark in the 3 critical years prior to July 20, 2020.

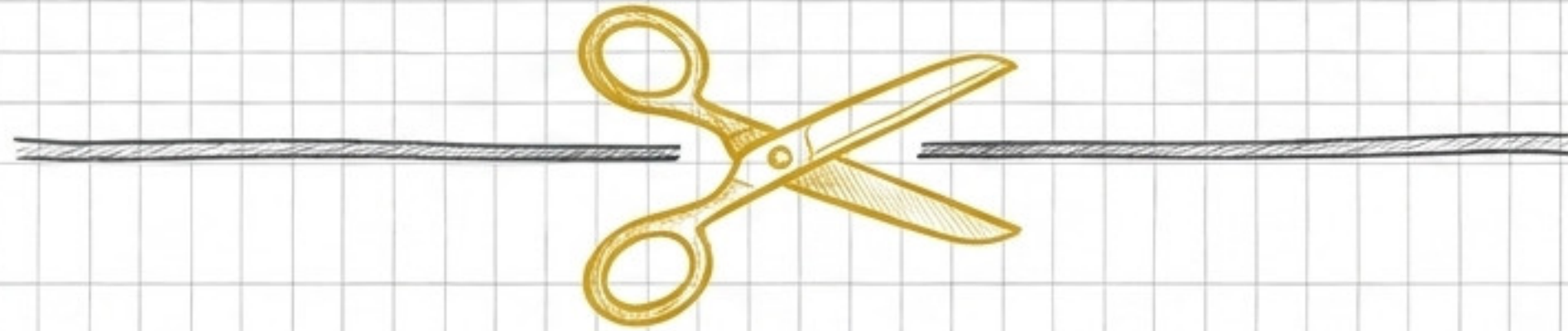
Since the mark is now officially revoked under the Trademark Act, the Appellant inherently lacks the standing to forbid others from using it going forward.

Status: Dismissal Upheld.

The Pitfall of Trademark Identity

正豐-正豐冬

Legally Registered as a single, combined 5-character string.



First Component
(Two Characters)

Second Component
(Three Characters)

Splitting a combined mark in actual market use
fundamentally alters its structural identity.

**Consumers cannot recognize the separated marks as the original registered source.
Legally, this constitutes "non-use" of the registered mark, triggering revocation.**

Judgment Highlights & Strategic Takeaways



Revocation is Forward-Looking

Trademark revocation (*Ex Nunc*) does not erase history. IP owners can and should aggressively pursue Damages for any infringement that occurred during the trademark's historically valid lifespan.



Injunctions Require Current Validity

Without an active, currently valid trademark registration, you possess no legal mechanism to secure an Injunction against future competitor behavior.



Use It Exactly As Registered

Modifying, separating, or splitting a combined mark in actual commercial use risks destroying its legal identity, leaving the IP entirely vulnerable to non-use revocation.