

CONFIDENTIAL



The Boundaries of Trademark Consent

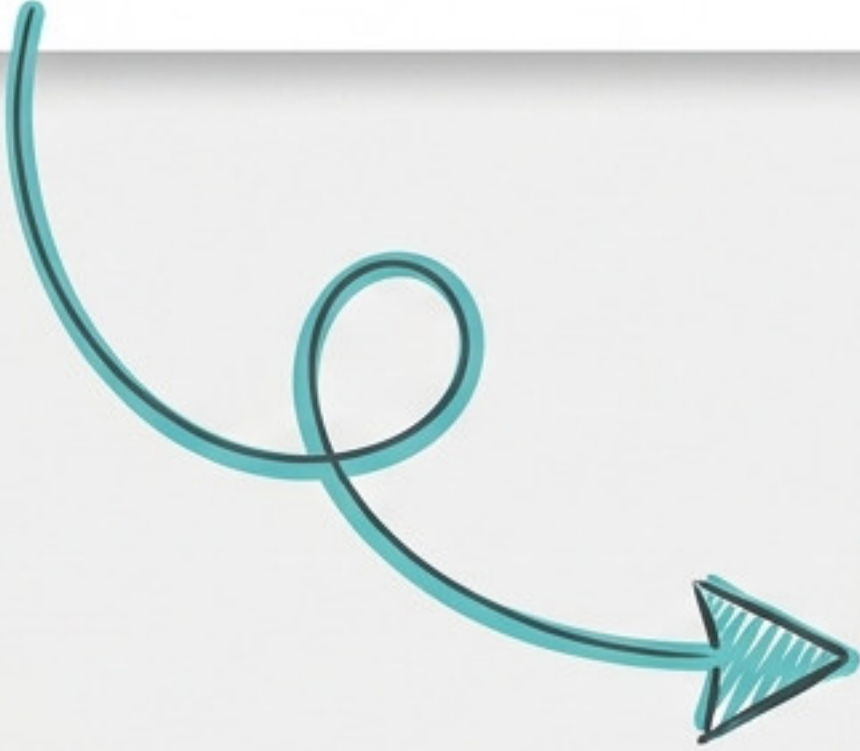
A Case Study on Parallel Imports & Right Exhaustion

Supreme Court Civil Judgment
113-Tai-Shang-882 (2024)

Case File: NEFFUL Trademark Dispute

The Core Legal Ambiguity

Under Trademark Act Article 36, Paragraph 2, a trademark owner cannot claim rights over goods traded in the market by the owner or a person **with their consent**.



The Dispute: What exactly is the scope of "with their consent"?

- ★ Does it require explicit, direct permission from the trademark holder?

The Appellant



The Plaintiff: Nefful International Holdings Pte. Ltd. (Singapore)

- Owner of Taiwan registered "NEFFUL" trademarks.
- **Action:** Filed a trademark infringement lawsuit demanding 1.65 million TWD in damages.

The Courtroom Showdown

The Appellee



The Defendant: Individual E-commerce Seller

(Shopee URL: shopee.tw/newfangna)

- **Status:** Sold ~116,693 TWD worth of genuine NEFFUL products legally purchased in Japan.
- **Defense:** Listed goods with descriptive text ("Free shipping~ Full series NEFFUL brought back from Japan") to indicate source, not to infringe.

Exhibit A: The Protected Marks



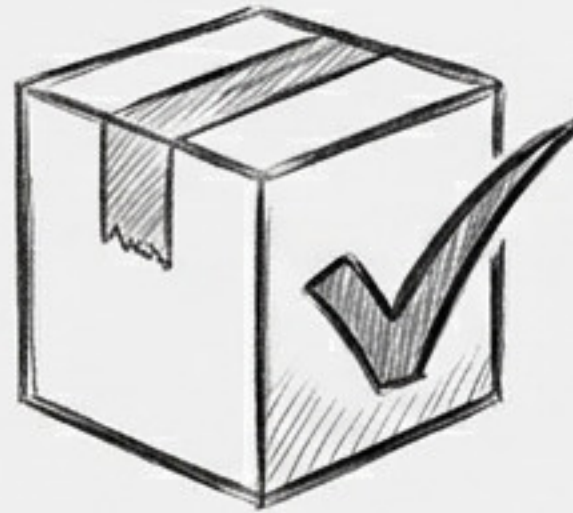
Case Note: The Appellant holds multiple registrations across 14 distinct classes, including 3, 5, 3, 10, 16, 18, 20, 21, 24, 25, 26, 28, 30, 32, and 35.

The Legal Framework



International Exhaustion Principle

Once goods are legitimately sold anywhere in the world, the owner's rights over those specific items are exhausted.



Parallel Importation

Legally recognized practice. Permitted unless genuine goods are altered, damaged, or repackaged after market entry.



Territoriality Principle

Trademarks are registered and protected independently on a strict country-by-country basis.

The Corporate Web (Tracing the Origin)



- Founded in Shizuoka-ken by Mr. Kamijo Hisami.
- Uses "NEFFUL" and "NEORON" marks.



- Branch expansion established.



- Holding company established (The Appellant).

Crucial Fact-Finding: The Appellant and the Japanese originator share the exact same corporate history, website narratives, and utilize identical trademarks.

Redefining 'Consent'

Supreme Court Civil Judgment 113-Tai-Shang-882 clarifies that consent is NOT limited to explicit permission.

- ☒ Same corporate group or affiliated enterprises
- ☒ Holding and subsidiary company relationships
- ☒ Global single trademark marketing strategies
- ☒ Ability to control product quality and goodwill

If exclusionary rights fundamentally originate from the SAME RIGHT HOLDER, it satisfies the implied consent requirement under Trademark Act Article 36, Paragraph 2.

Overcoming the Territoriality Principle

*Taiwan & Singapore Trademarks
(Owned by Appellant)*

*Japan Trademarks
(Owned by Japanese Founder Entity)*



Despite being legally distinct entities across borders (Territoriality), the fundamental exclusionary rights originate from the same right holder.

Result: The Appellant maintains control over global quality. Therefore, goods legitimately bought in Japan are distributed with implied consent.

The Final Verdict



- ★ The Appellee wins the dispute.
- ★ The products sold on Shopee are legally protected genuine parallel imports.
- ★ Under Trademark Act Article 36, Paragraph 2, the Appellant's trademark rights are officially exhausted.
- ★ No trademark infringement occurred.

Judgment Highlights & Industry Implications

- 1 Broad Interpretation of Consent:** Courts look beyond strict corporate borders. Implied consent exists within shared corporate groups and global marketing ecosystems.
- 2 Parallel Imports Protected:** E-commerce sellers are legally shielded by the International Exhaustion Principle when reselling unaltered, legally purchased genuine goods from abroad.
- 3 The Limits of Territoriality:** Multinational corporations cannot use isolated international registrations as a weapon to block parallel imports of their own global products.
- 4 Descriptive Fair Use:** Accurately describing a product's origin (e.g., "brought back from Japan") is a legitimate business practice, not an infringement.

Based on Supreme Court Civil Judgment 113-Tai-Shang-882.