



The Case of the Extinguished Trademark: A Legal Deconstruction

Analyzing Trademark Act §30(I)(12) and the strict limits of Prior Use.

Source: Intellectual Property and Commercial Court,
Administrative Judgment 113 Xing-Shang-Su-Zi No. 67 (2024).

The Statute

Trademark Act, Article 30,
Paragraph 1,
Subparagraph 12.

- Focuses on preventing registration of marks that plagiarize another's prior use in bad faith.

The Core Dispute

Can a former licensee claim prior use to oppose a new trademark registration after the original trademark owner dies and the original mark is legally extinguished?

Verdict Spoiler

Plaintiff's opposition dismissed. The new registration stands.

健康時刻

Reg. No. 02186533. Applied Apr 13, 2021.

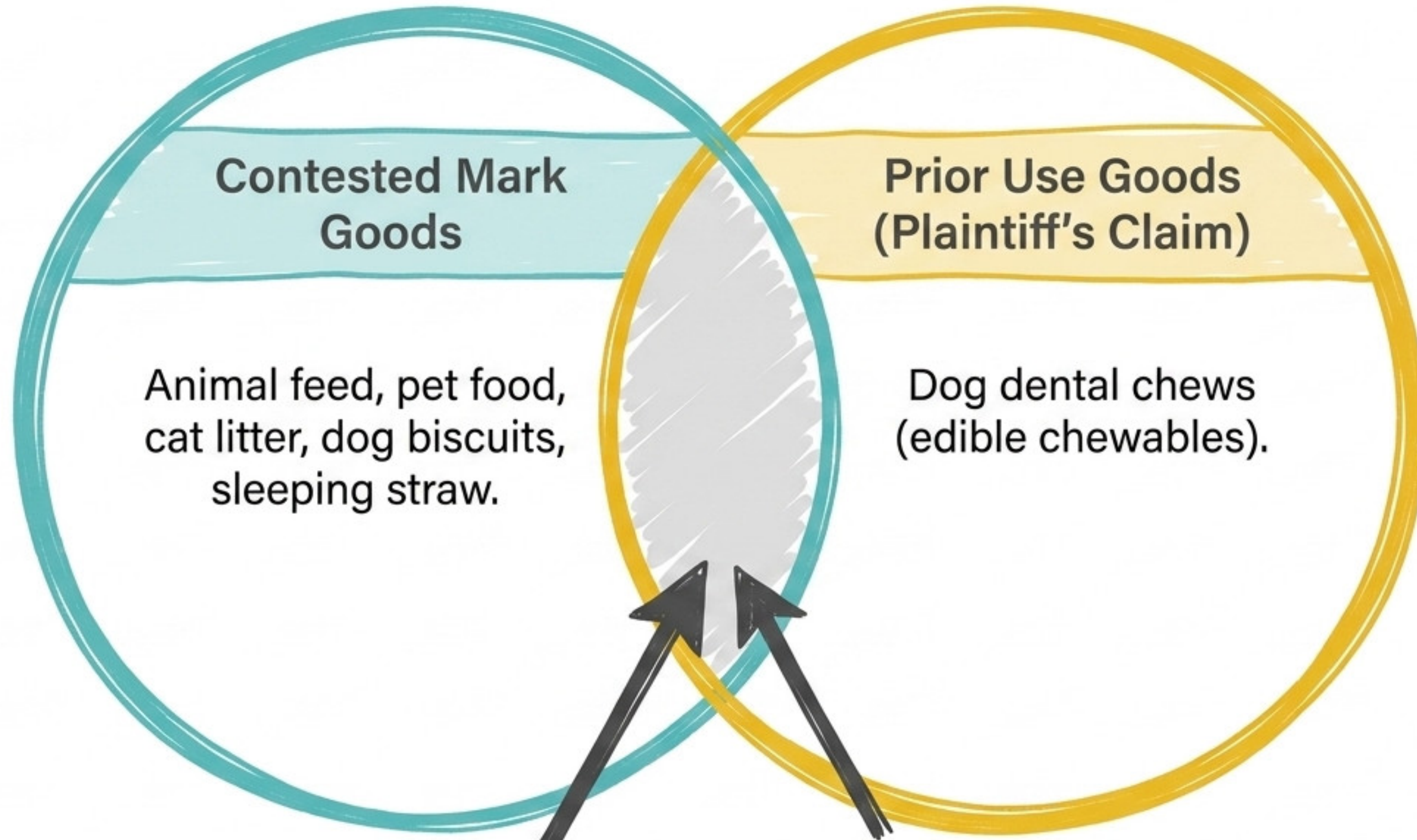
註冊第01762153號 第 31 類：動物飼料、狗動物飼料、狗動物飼料、狗動物飼料、狗動物飼料、狗動物飼料、狗動物飼料、狗動物飼料、狗貓飼料、用乾草果渣狗餅貓飼料、用乾草果渣狗餅貓飼料、用乾草果渣狗餅貓飼料、用乾草果渣狗餅貓飼料、用乾草果渣狗餅貓飼料、用乾草果渣狗餅貓飼料、用乾草果渣狗餅動物食品、寵用穀物、飼料用稻草動可食咀嚼物、寵飲料供便溺用香味沙、供寵物便溺用紙製動沙、供寵物便溺用紙製動沙、供寵物便溺用紙製動沙、供寵物便溺用紙製動沙、供寵物便溺用紙製動沙、或睡臥用稻草、貓砂供動物便溺或睡臥用稻草、貓砂供動物便溺或睡臥用稻草、貓砂供動物便溺或睡臥用稻草、貓砂供動物便溺或睡臥用稻草、貓砂供動物使用貓砂、家畜動物墊草供睡用貓砂、家畜動物墊草供睡用貓砂、家畜動物墊草供睡用貓砂、家畜動物墊草供睡臥用墊草。

健康時刻

Reg. No. 01762153. (Original Owner: Jiang).



Court's Visual Assessment: Both marks consist of identical text (meaning Healthy Moments). The Court found them highly similar in appearance, phonetics, and concept, making them virtually indistinguishable to consumers.



The Court's Assessment: Similar goods (Class 31). Despite specific differences (feed vs. edible chews), they share identical functions, producers, marketing channels, and consumer demographics. The conflict area is confirmed.

The Opponent

Former Distributor

- ✓ Claimed prior use of the mark in the market.
- ✓ Wants the new registration canceled.
- ✓ Argues they built the brand's market presence through extensive sales.



The Registrant

New Applicant

- ✓ Applied to cancel the old (dead) owner's mark.
- ✓ Simultaneously registered the new one legally.
- ✓ Defends their registration as a valid statutory process, not plagiarism.



Pre-2020

Original owner (Jiang) holds Cited Trademark. Plaintiff operates simply as a distributor/licensee.

Dec 15, 2020

The Inciting Incident. Original owner dies without heirs.

The Legal Consequence

Under Trademark Act §47(2), trademark rights extinguish automatically upon the owner's death without heirs.

The Plaintiff's licensing foundation evaporated immediately on this date.

Plaintiff's Evidence

Invoices and Facebook posts from 2019 to mid-2020 showing active sales of dental chews under the brand.



Court's Scrutiny

Pre-death evidence only proves a distribution relationship with the original owner (Jiang).

Synthesis: Selling someone else's product does not establish prior use. The evidence failed to prove the Plaintiff used the mark to represent their own distinct goods.



The Claim

Plaintiff provided sales records to a pet supply chain between Dec 2020 and April 2021 (post-death).

The Flaws

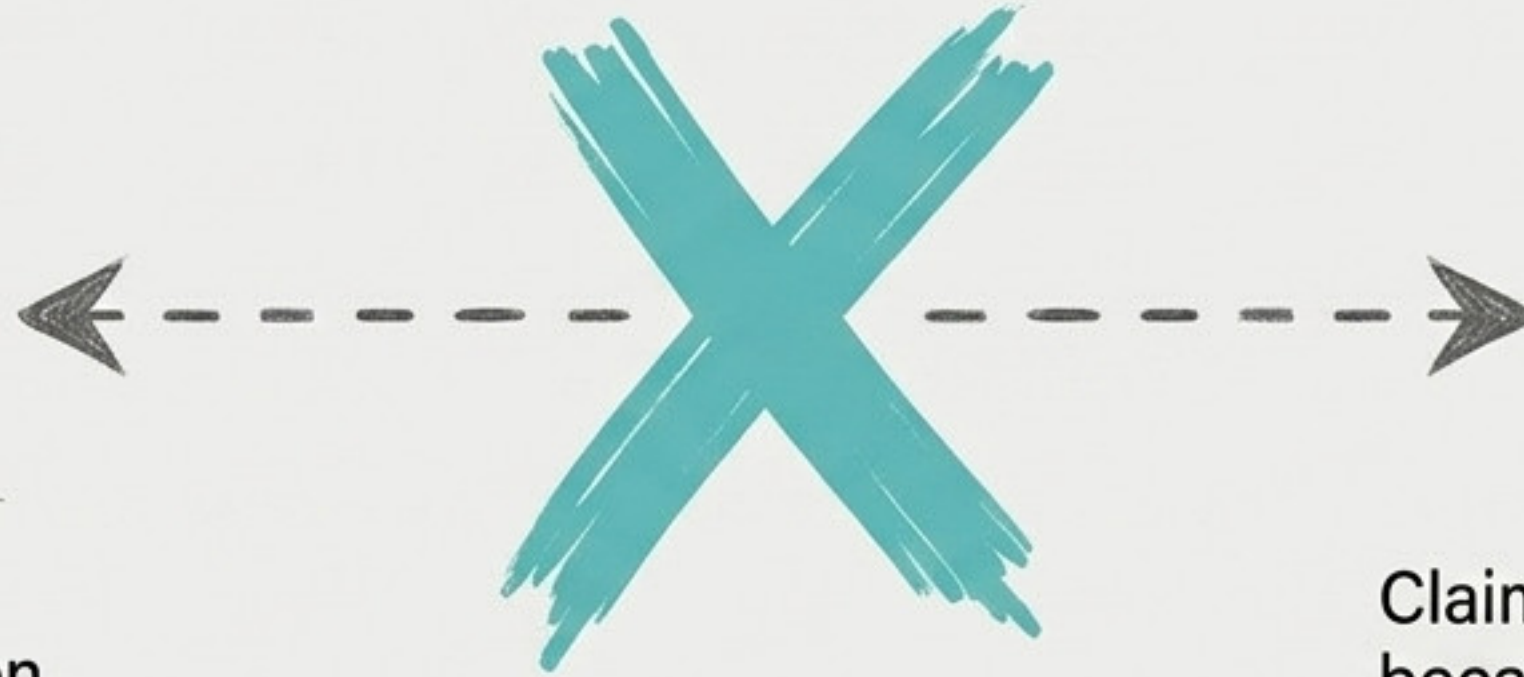
- ➔ **Flaw 1 (Residual Stock):** The Court noted these sales were likely just clearing out leftover stock from the previous distribution deal, not establishing a new, independent trademark right.
- ➔ **Flaw 2 (The Anachronism):** Evidence photos provided by the pet supply chain showed packaging with manufacturing dates in 2024—making them impossible to use as proof of sales in 2020/2021.

The Manufacturer vs. The Plaintiff

The Manufacturer



Wistron Corp.
Address printed clearly on
the product packaging.



The Plaintiff



Claims to be a related enterprise
because their representative is a
shareholder in Wistron Corp.

The Legal Reality:

The Corporate Veil holds. Wistron Corp and the Plaintiff are strictly separate legal entities. The product packaging showed zero indication that the goods originated from the Plaintiff. Shareholder status does not transfer trademark usage rights.



Did the Intervenor plagiarize maliciously under Trademark Act §30(l)(12)?



Followed statutory procedures to cancel an extinguished mark.



Registered the new mark simultaneously (April 13, 2021).



The phrase is common. Third parties hold multiple valid registrations using identical wording.

Conclusion: No Bad Faith

Following legal administrative procedures to claim an extinguished, common-phrase trademark is not malicious plagiarism.



The Decision

- ✓ Plaintiff's lawsuit is fully dismissed. The opposition fails.

The Costs

- ✓ All litigation costs are to be borne by the Plaintiff.

The Status

- The Contested Trademark (Reg. No. 02186533) remains validly registered and protected under the Intervenor.



Key Takeaways & Inspirations

1. Licensing is Fragile

- ➔ A trademark license dies with the trademark. If an **owner dies without heirs**, the mark **extinguishes** (Act §47(2)), and licensees instantly lose their legal cover to use the mark.

2. Prior Use Requires Origin

- ➔ Selling someone else's branded goods (distribution) does not grant you prior use rights. You must prove the mark was used specifically to identify the goods as originating from you.

3. Entity Separation Matters

- ➔ You cannot claim a manufacturer's trademark use as your own simply by being a shareholder. Legal entities are strictly separate in trademark evaluation; packaging must reflect the actual claiming entity.