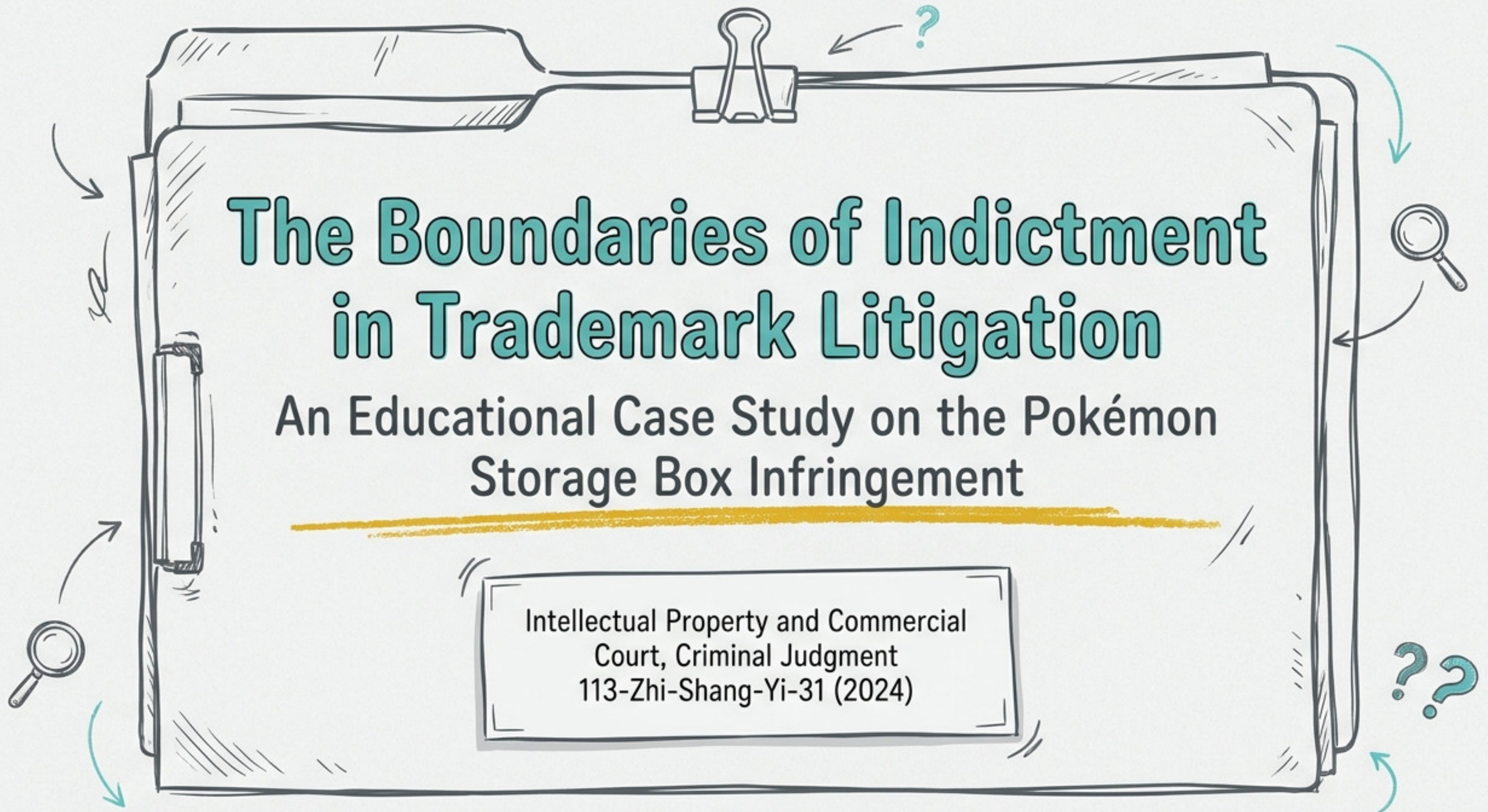




The Boundaries of Indictment in Trademark Litigation

An Educational Case Study on the Pokémon
Storage Box Infringement

Intellectual Property and Commercial
Court, Criminal Judgment
113-Zhi-Shang-Yi-31 (2024)

Understanding the procedural limits of expanding criminal facts during an appellate review.

The Origin of the Dispute: A Claw Machine Raid



The Purchase.

Defendant buys counterfeit goods from an unknown source for NT\$20-30.



The Display.

Goods are placed in a claw machine. The machine guarantees a win for NT\$100.



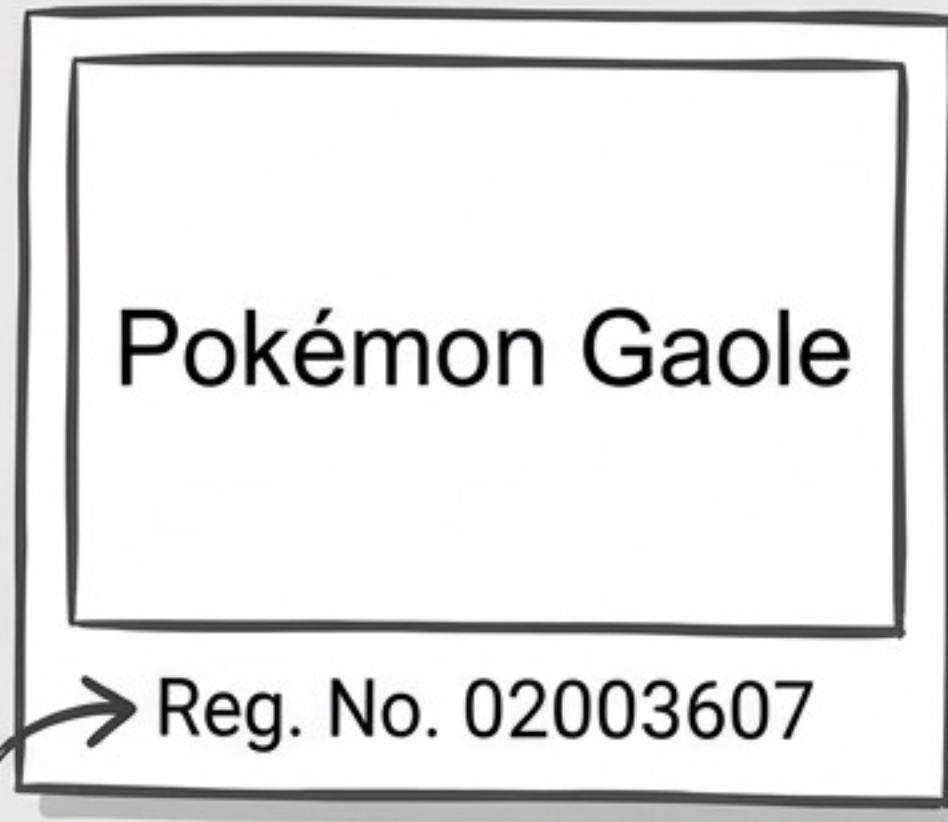
The Raid.

Police execute a search warrant issued by the Ciaotou District Court. Counterfeit goods are seized.

The Charge: The Prosecutor indicts the defendant under **Trademark Act §97 (First Part)**: Displaying counterfeit goods with the ... intent to sell.

The Original Legal Grounds (Ciaotou District Court)

The Prosecutor's original indictment relied strictly on three specific trademarks owned by the complainant.



The Critical Constraint:
These three registered
trademarks primarily cover:

- ✓ Class 009: Electronic Games & Devices
- ✓ Class 028: Toys & Arcade Machines
- ✓ Class 041: Entertainment Services

The Split Verdict: A Matter of Classification

Seized Item	Trademark Class Match	Legal Outcome
General Counterfeit Toys	Covered by Class 028	Guilty (Violation of Trademark Act §97). 
Pokémon Storage Box (Exhibit 4)	NOT covered by Classes 009, 028, or 041	Excluded / Not Guilty 

Key Insight: The District Court ruled that because the specifically indicted trademarks did not cover storage boxes or wallets, the item could not be deemed a counterfeit under the boundaries of the original trial.



The Prosecutor's Appeal: A Tactical Pivot

Dissatisfied with the exclusion of the Storage Box, the Prosecutor appeals to the Intellectual Property and Commercial Court.

The New Evidence:

To catch the storage box, the Prosecutor attempts to introduce three entirely different trademarks via the Appeal Brief and Supplementary Reasoning Brief:

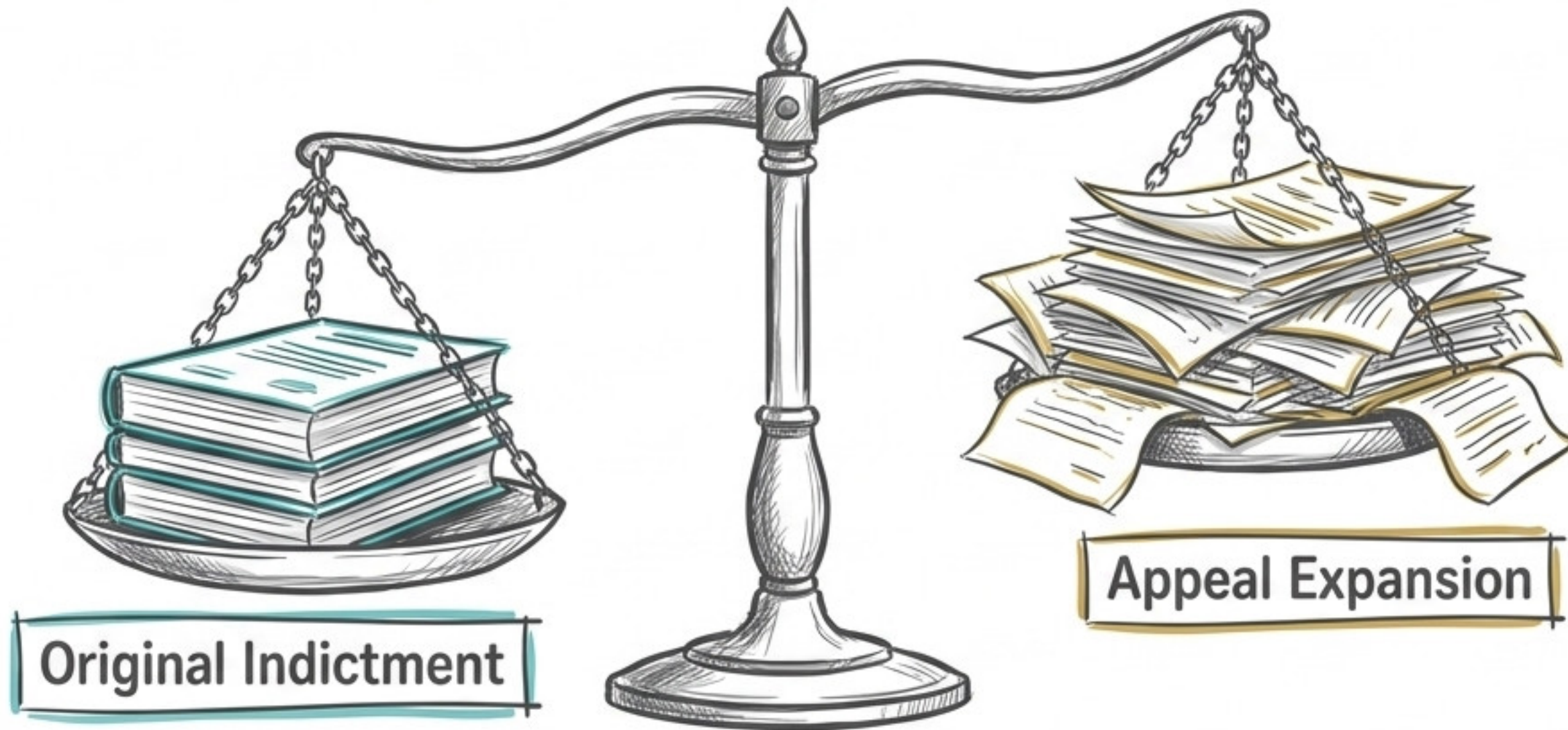
- Reg. No. 00854016
- Reg. No. 00885978
- Reg. No. 02052102

The Class 18 Match.

These newly introduced trademarks explicitly cover Class 18 (Wallets, Suitcases, Key Cases). The Prosecutor argues the seized 11x8x4.5 cm storage box functions perfectly as a Class 18 wallet.

The Central Procedural Question

Can a prosecutor legally expand the “Facts of the Crime” during the appeal stage by introducing entirely new trademarks?



The Prosecutor claims the new Class 18 trademarks prove infringement and consumer confusion. The Court must determine if evaluating these new trademarks violates procedural law.

Clash of Perspectives: Substance vs. Procedure

The Prosecutor's Substantive Claim

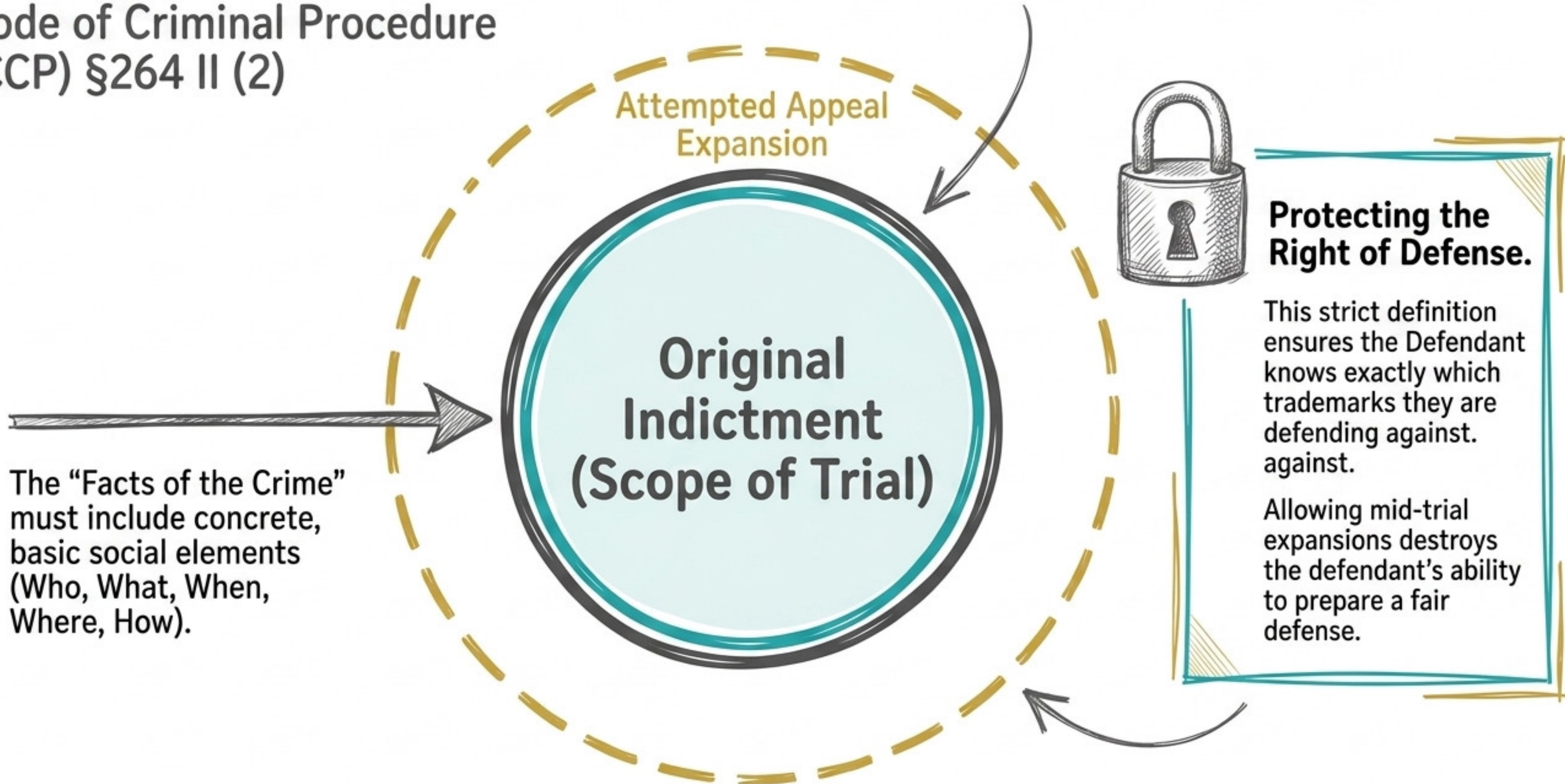
“The Storage Box clearly features Pikachu and Pokéball images. It functions exactly like a Class 18 wallet. It causes obvious consumer confusion. The court must consider these new trademarks to uphold justice!”

The Court's Procedural Principle

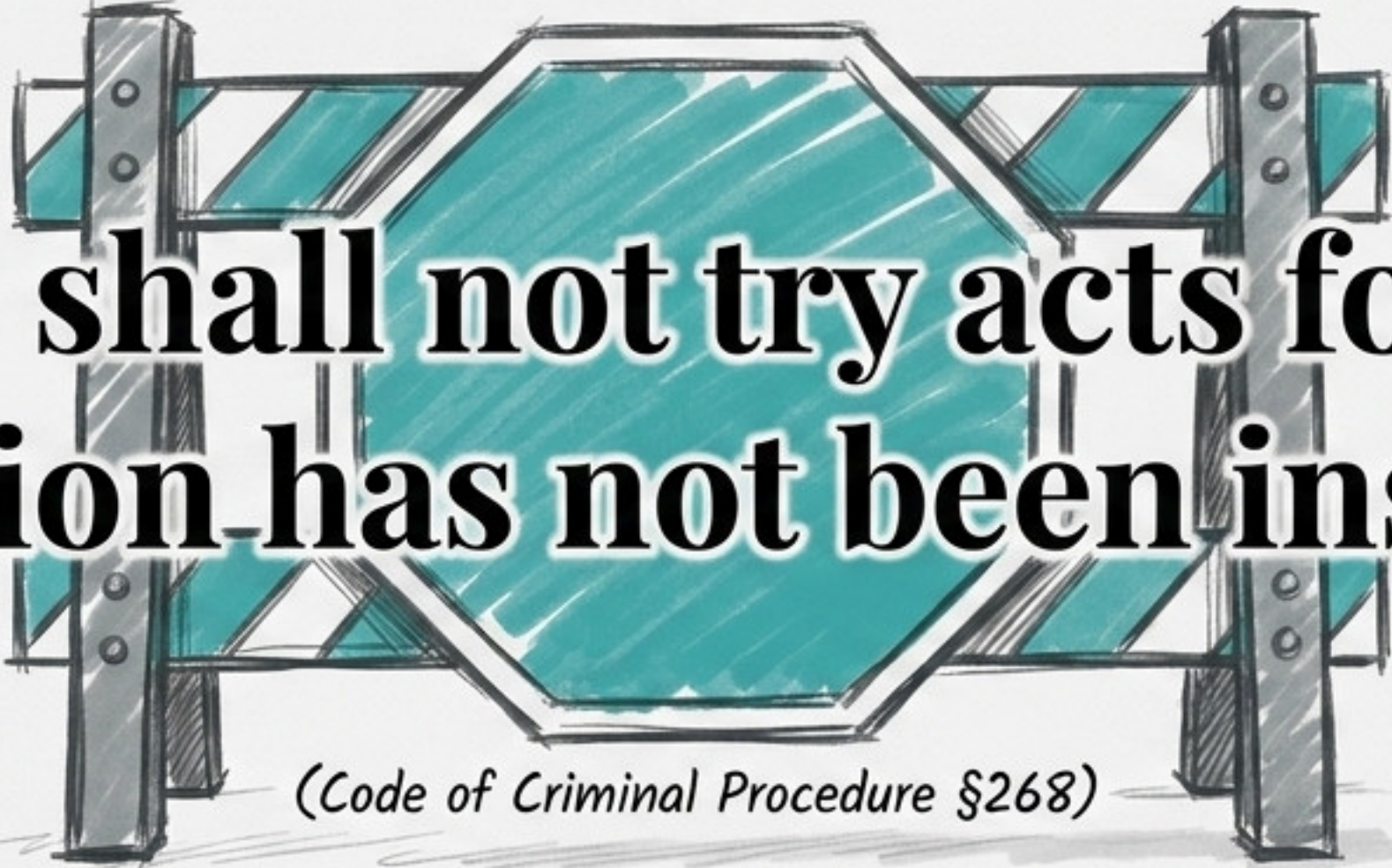
“We are strictly bound by the original indictment. The original indictment explicitly excluded these Class 18 trademarks. We cannot judge outside the prescribed boundaries, regardless of visual similarity.”

Defining the Boundary: Facts of the Crime

Code of Criminal Procedure
(CCP) §264 II (2)



The Ultimate Limit: CCP §268



“Courts shall not try acts for which prosecution has not been instituted.”

(Code of Criminal Procedure §268)

Structural Difference

Unlike civil litigation (where claims can sometimes be expanded or reduced), criminal procedure requires rigid adherence to the initially indicted facts.

Bottom Line

A prosecutor cannot use an Appeal Brief or a Supplementary Reasoning Brief as a magical backdoor to add new trademarks that were never originally indicted.

Contextual Nuance: Imaginary Concurrence

The Prosecutor only appealed the "Storage Box" part. Why did the appellate court review the entire guilty verdict?



When one single act (putting multiple items into one claw machine) infringes multiple rights, it is treated as one interconnected legal reality.

Because it is interconnected, appealing one part brings the whole case into the appellate court's view. However, this procedural review mechanism STILL does not grant the right to introduce entirely new, unindicted trademarks.

The Court's Final Ruling



APPEAL DISMISSED.

Intellectual Property and Commercial Court (113-Zhi-Shang-Yi-31)

1.

The three Class 18 trademarks were never part of the original Ciaotou District Court indictment.

2.

The prosecutor's attempt to add them constitutes an illegal expansion of the indicted facts.

3.

Because these facts were unindicted, they fall entirely outside the appellate court's scope of trial.

How Should New Claims Be Handled?

Path A: The Correct Method



Action: File an independent new lawsuit (New Indictment).



Result: Procedurally sound. The court can evaluate the new Class 18 trademarks properly.

Path B: The Prosecutor's Flawed Path

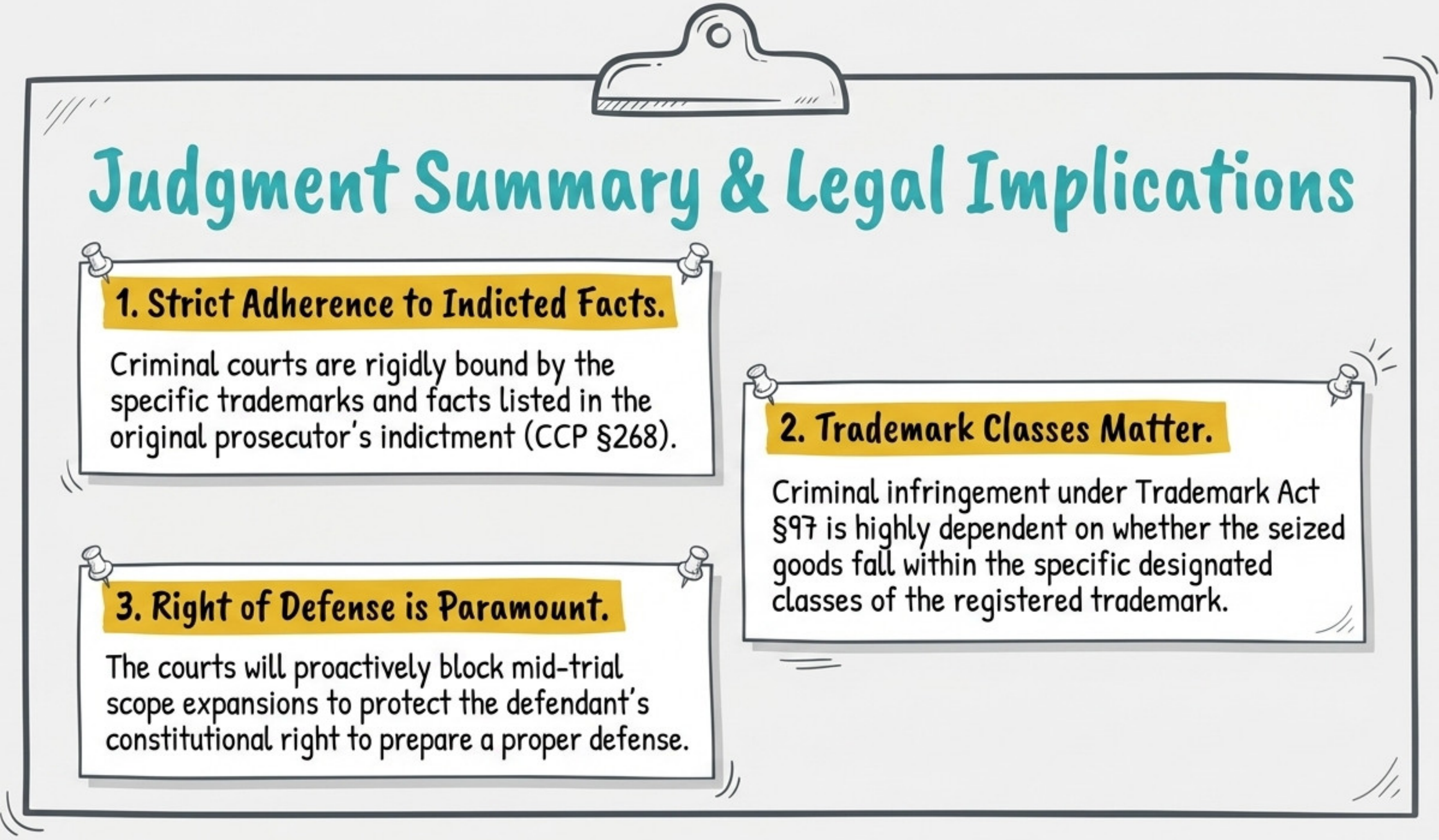


Action: Squeeze new trademarks into an ongoing appeal via supplementary briefs.



Result: Instant dismissal under CCP §268.

Key Takeaway: In criminal IP law, procedural shortcuts automatically invalidate substantive claims.



Judgment Summary & Legal Implications

1. Strict Adherence to Indicted Facts.

Criminal courts are rigidly bound by the specific trademarks and facts listed in the original prosecutor's indictment (CCP §268).

3. Right of Defense is Paramount.

The courts will proactively block mid-trial scope expansions to protect the defendant's constitutional right to prepare a proper defense.

2. Trademark Classes Matter.

Criminal infringement under Trademark Act §97 is highly dependent on whether the seized goods fall within the specific designated classes of the registered trademark.



Strategic Insights for IP Owners

Insight 1: Comprehensive Initial Filings.

When assisting police or prosecutors in the initial stages of a raid, trademark owners MUST ensure that all relevant trademark registration numbers—covering all possible classes of the seized fake goods—are included in the initial complaint.

Insight 2: No Second Chances on Appeal.

You cannot fix a deficient initial indictment by throwing new trademarks at an appellate judge.

**IN IP CRIMINAL LITIGATION, PRECISION AT THE STARTING LINE DICTATES THE FINISH LINE.
ENSURE YOUR INDICTMENT PERFECTLY MATCHES YOUR EVIDENCE ON DAY ONE.**