

The Logistics Trap: Accessory Liability in Cross-Border E-Commerce

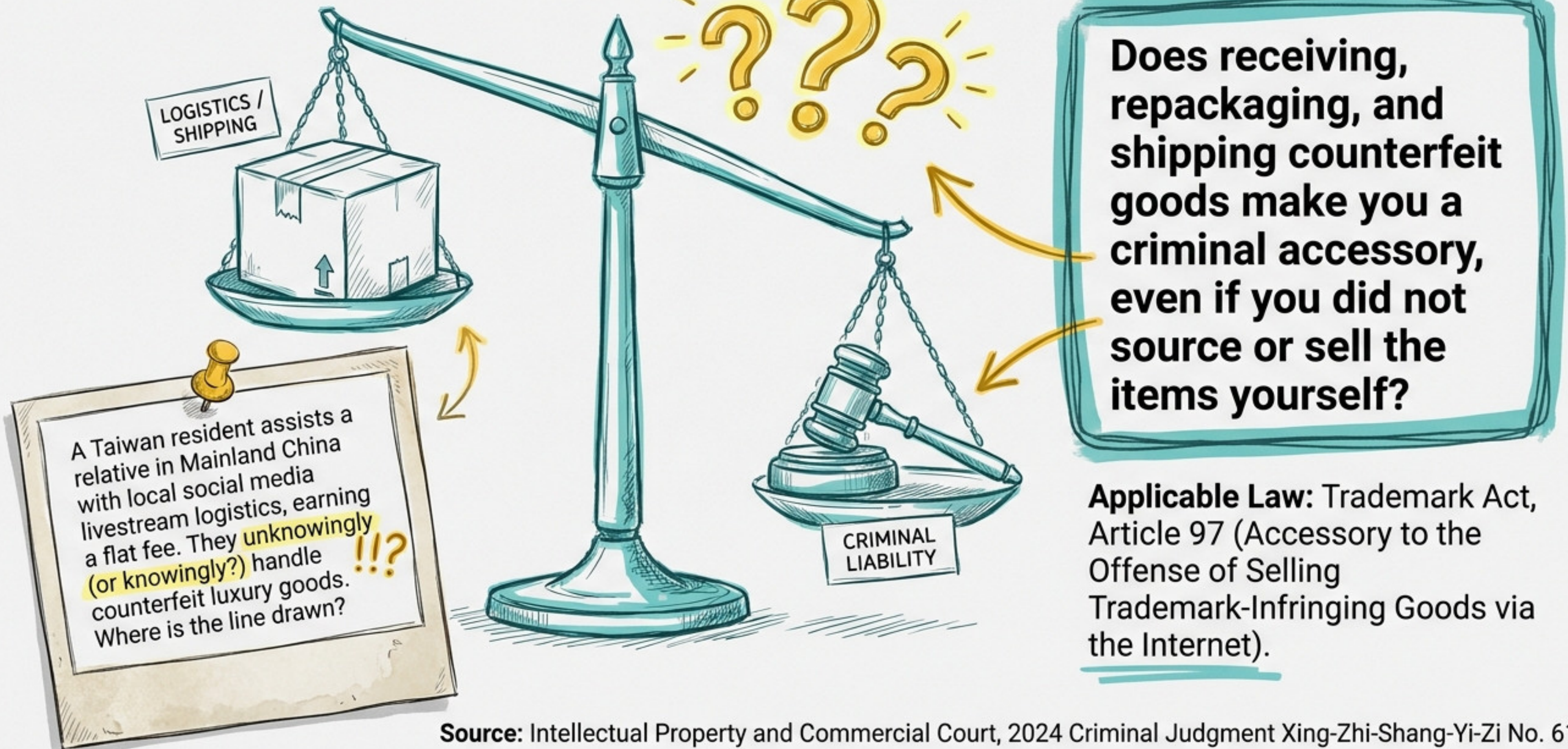
An Educational Breakdown of Trademark Act
Violations via Social Media Logistics

Intellectual Property and
Commercial Court, 2024
Criminal Judgment
Xing-Zhi-Shang-Yi-Zi No. 61

**TRADEMARK
INFRINGEMENT**

Source: Intellectual Property and Commercial Court, 2024 Criminal Judgment Xing-Zhi-Shang-Yi-Zi No. 61

The Central Question



Source: Intellectual Property and Commercial Court, 2024 Criminal Judgment Xing-Zhi-Shang-Yi-Zi No. 61

The Anatomy of the Operation



The Sister (Mainland China)

Sells affordable clothing via Facebook fan pages. Needs a local proxy for Taiwanese operations.



The Logistics

Defendant receives bulk shipments from China, repacks them locally, and utilizes convenience store Store-to-Store delivery.

The Defendant (Taiwan)

Provides a Facebook account, bank account, and phone number.

Earns a fixed 5,000 NTD/month fee.



The Consumer

Purchases counterfeit Chanel and Dior goods via livestream, receiving them directly from the Defendant's logistics node.



Source: Intellectual Property and Commercial Court, 2024 Criminal Judgment Xing-Zhi-Shang-Yi-Zi No. 61

The Courtroom Clash: Ignorance vs. Evidence

The Defense



- **Sisterly Love:** Merely lending accounts out of family obligation, not for criminal enterprise.



- **The Opaque Bag:** Parcels arrived in non-transparent bags; contents were never physically inspected.



- **Immediate Refusal:** Claimed to have stopped shipping immediately upon discovering counterfeits.

Objective Evidence



- **Brand Inconsistency:** The shop sold affordable clothes, yet logistical messages explicitly referenced luxury brands.



- **Continuous Action:** Zero chat log records of the Defendant refusing to ship items.

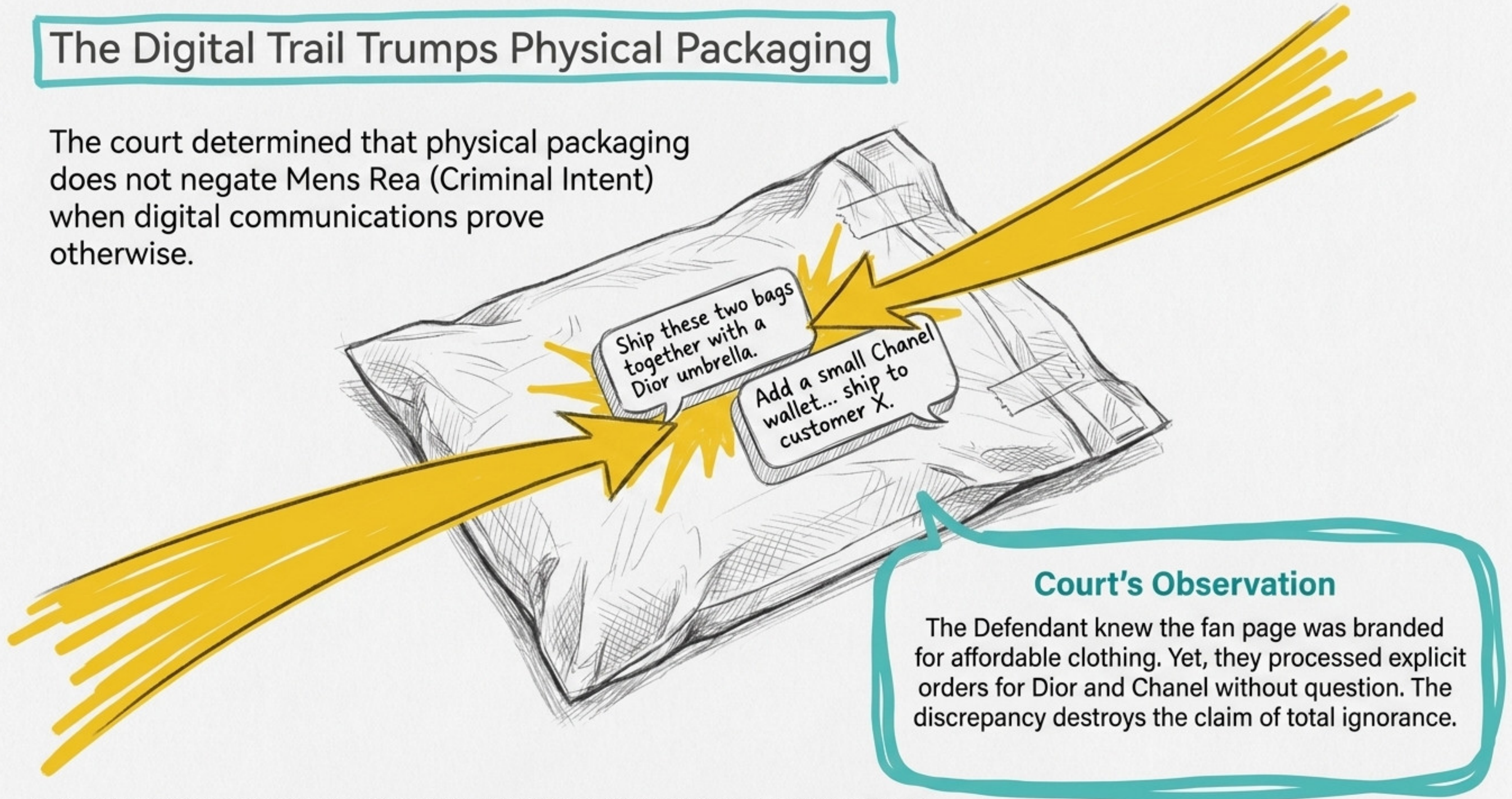


- **Police Seizure:** Physical counterfeit goods were actively seized at the Defendant's residence via a search warrant.



The Digital Trail Trumps Physical Packaging

The court determined that physical packaging does not negate Mens Rea (Criminal Intent) when digital communications prove otherwise.



Court's Observation

The Defendant knew the fan page was branded for affordable clothing. Yet, they processed explicit orders for Dior and Chanel without question. The discrepancy destroys the claim of total ignorance.

Why the Prior Non-Prosecution Failed to Protect

The Defendant cited a previous Non-Prosecution Disposition (112 Zhen-Zi No. 61278) to claim absolute innocence in this case.

Feature	Prior Case (Non-Prosecution)	Current Case (Conviction)
Account Lending	Yes ✓	Yes ✓
Logistics Involvement	NO (Did not handle packages) ✗	YES (Received, repacked, shipped via 7-11)
Digital Evidence	Insufficient	Strong (Direct chat logs managing luxury brand shipments)



Court's Finding: Factual patterns are distinct. Prosecutorial discretion in a separate case with different evidence does not bind this court's judgment. Escalation of involvement changes the legal outcome.

Establishing Dolus Eventualis (Indirect Intent)

Definition: Dolus Eventualis occurs when a perpetrator foresees the possibility of a criminal outcome but accepts it or proceeds regardless of the consequences.



- Defendant foresaw that her sister might be utilizing logistical help **to sell infringing goods** (triggered by luxury brand names in chats).
 - She **continued to provide shipping assistance** anyway.
- Therefore, assisting the primary offender did not violate the **Defendant's** will. **Intent is established.**

Final Judgment and Sentencing



Initial Ruling: Taiwan New Taipei District Court, 2024 Criminal Judgment Zhi-Yi-Zi No. 27 (Revoked in part).

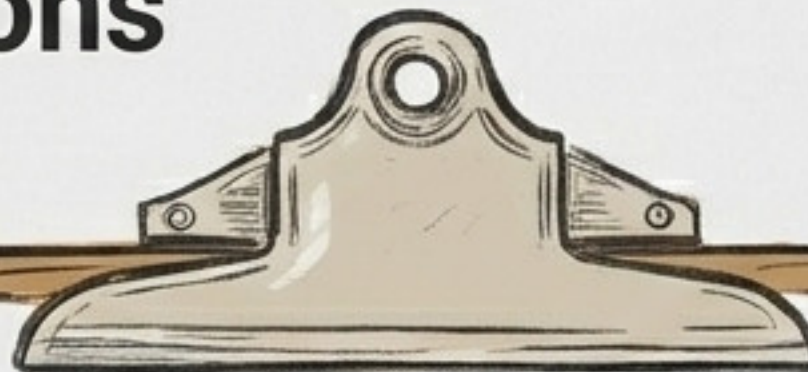
Appellate Ruling

Crime: Accessory to the Offense of Selling Trademark-Infringing Goods via the Internet (Trademark Act, Article 97).

Sentence: 2 Months Imprisonment (Commutable to a fine at 1,000 NTD per day).

Confiscation: 5,000 NTD (Unseized criminal proceeds).

Key Takeaways & Lessons for E-Commerce



Insight 1: Logistics is NOT an Absolute Shield.

Merely acting as a blind shipper or dropshipper does not grant immunity from accessory liability if digital footprints suggest awareness.



Insight 2: Indirect Intent (Dolus Eventualis) is Sufficient.

You do not need to actively source counterfeits to be guilty. Ignoring obvious red flags (e.g., shipping Dior for a budget clothing shop) establishes criminal intent.



Insight 3: Unifying Independent Cases is Risky.

Relying on a prior Non-Prosecution Disposition is ineffective if the scope of your participation escalates from passive account lending to active shipping.



Insight 4: Brand Protection Reaches the Nodes.

Trademark owners can effectively trace liability down to local logistical proxy nodes, neutralizing cross-border infringement operations at the point of delivery.