



THE KE-YAN TRADEMARK DISPUTE

Anatomy of a Verdict: Trademark
Use vs. Descriptive Fair Use

*Source Citation: Taiwan Kaohsiung District Court, 2024 Zhi-Yi No. 10
Criminal Judgment (Ref: 114040201)*

THE ACCUSATION

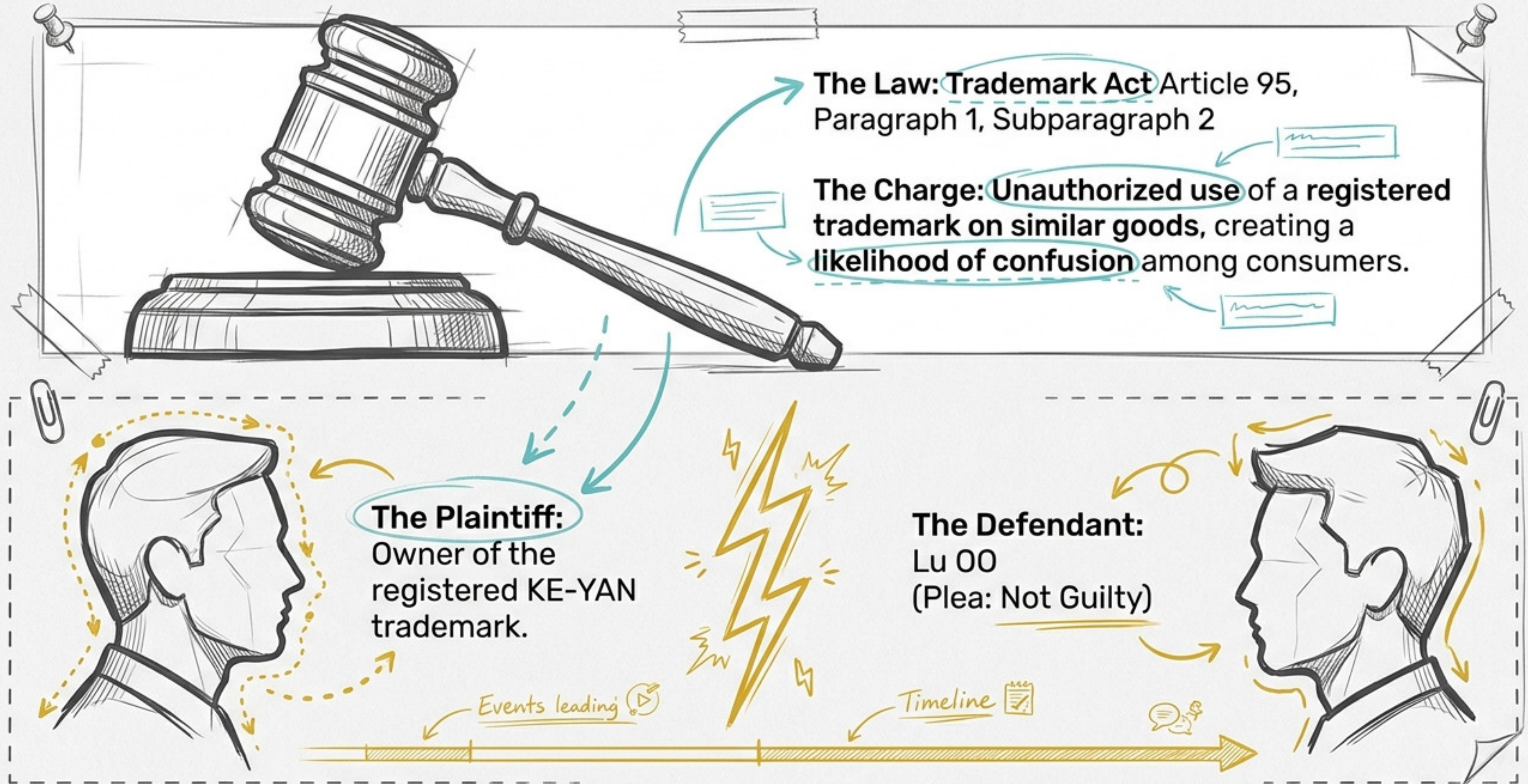


EXHIBIT A: THE PROTECTED MARK



Registration No.:
01714274

Protected Category:
Class 5 Goods

Scope Summary: Medical biological preparations, medical hyaluronic acid, human pharmaceuticals, biological reagents, medical diagnostic chemical preparations.

THE MARKET REALITY (PLAINTIFF VS. DEFENDANT)



Product Type: High-end medical devices (injectable hyaluronic acid, surgical anti-adhesion gels).

Target Audience: Medical institutions & professionals.

Nature: Business-to-Business (B2B) Medical.



Product Type: Dietary supplements (oral hyaluronic acid pills, categorized as food).

Target Audience: General consumer public.

Nature: Business-to-Consumer (B2C) Retail.



EVIDENCE DECONSTRUCTION: THE PACKAGING LAYOUT



Dominant Brand Name
(GiLBeLLiE)

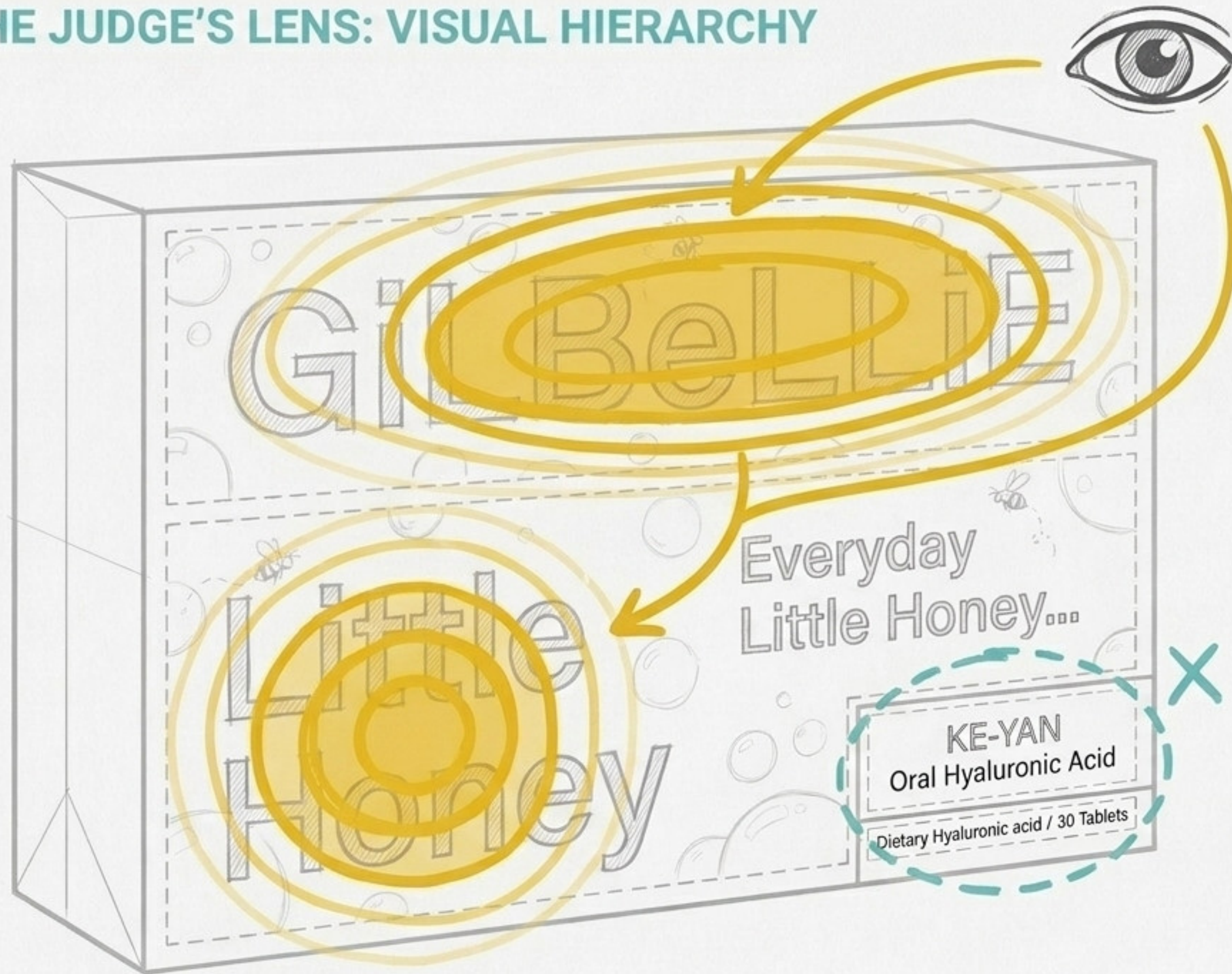
Primary Product Name
(Little Honey / Little Purple Honey) - Size matches top zone.

Marketing Slogans
(Everyday Little Honey..., etc.)

Disputed Text
(KE-YAN Oral Hyaluronic Acid)
- Significantly smaller font, isolated by lines.

English Specification
(Dietary Hyaluronic acid / 30 Tablets)
- Smallest font.

THE JUDGE'S LENS: VISUAL HIERARCHY



Primary Focal Point:

Consumer attention is intentionally drawn to GiLBeLLiE and Little Honey due to massive font size, central placement, and thematic packaging (purple background, bee motifs).

Secondary/Tertiary Element:

The KE-YAN text is minimized, visually segregated by lines, and physically grouped with product specifications (Dietary Hyaluronic acid, 30 Tablets).

Conclusion:

The layout actively prevents KE-YAN from functioning as the primary brand identifier.

LEGAL FINDING 1: DESCRIPTIVE FAIR USE

The Principle: Trademark Use requires utilizing a mark to identify the source of the goods to consumers.

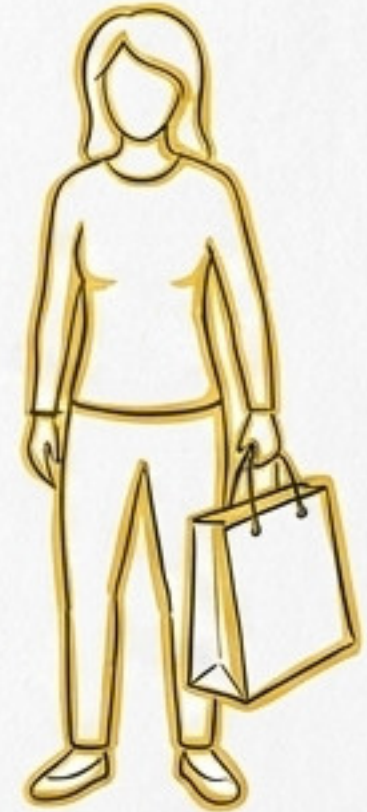
The Application: The word KE-YAN was utilized merely as an adjective.



The Contextual Proof: By pairing KE-YAN directly with Oral Hyaluronic Acid in a tiny font next to the pill count, it functioned solely to describe the product's specifications and contents to the consumer.

Result: No Trademark Use occurred; it falls under ordinary commercial fair use.

LEGAL FINDING 2: NO SUBJECTIVE INTENT



The Principle: Criminal trademark infringement requires a subjective intent to piggyback on another's established brand reputation.

The Application: The Plaintiff operates in high-end medical devices (B2B). The Defendant sells dietary food supplements (B2C).

Result: **Because the business models and target audiences are entirely distinct, there is no logical basis to assume the Defendant intended to maliciously ride on the Plaintiff's medical-grade reputation.**

THE VERDICT

NOT GUILTY

The prosecution failed to establish either
Trademark Use or Subjective Intent to infringe.

KEY TAKEAWAYS & LEGAL IMPLICATIONS

1.

Context Over Text:
Printing a registered word on a box is not automatic infringement. Visual hierarchy, font size, and spatial layout determine if a word functions as a brand or merely a descriptor.

2.

The Power of Fair Use:
Using a term to accurately describe product contents, specifications, or characteristics (Descriptive Fair Use) is a valid defense under the Trademark Act.

3.

Market Divergence Matters: Radically distinct target audiences (e.g., Clinical Medical vs. General Retail) drastically lower the likelihood of consumer confusion and negate claims of malicious intent.