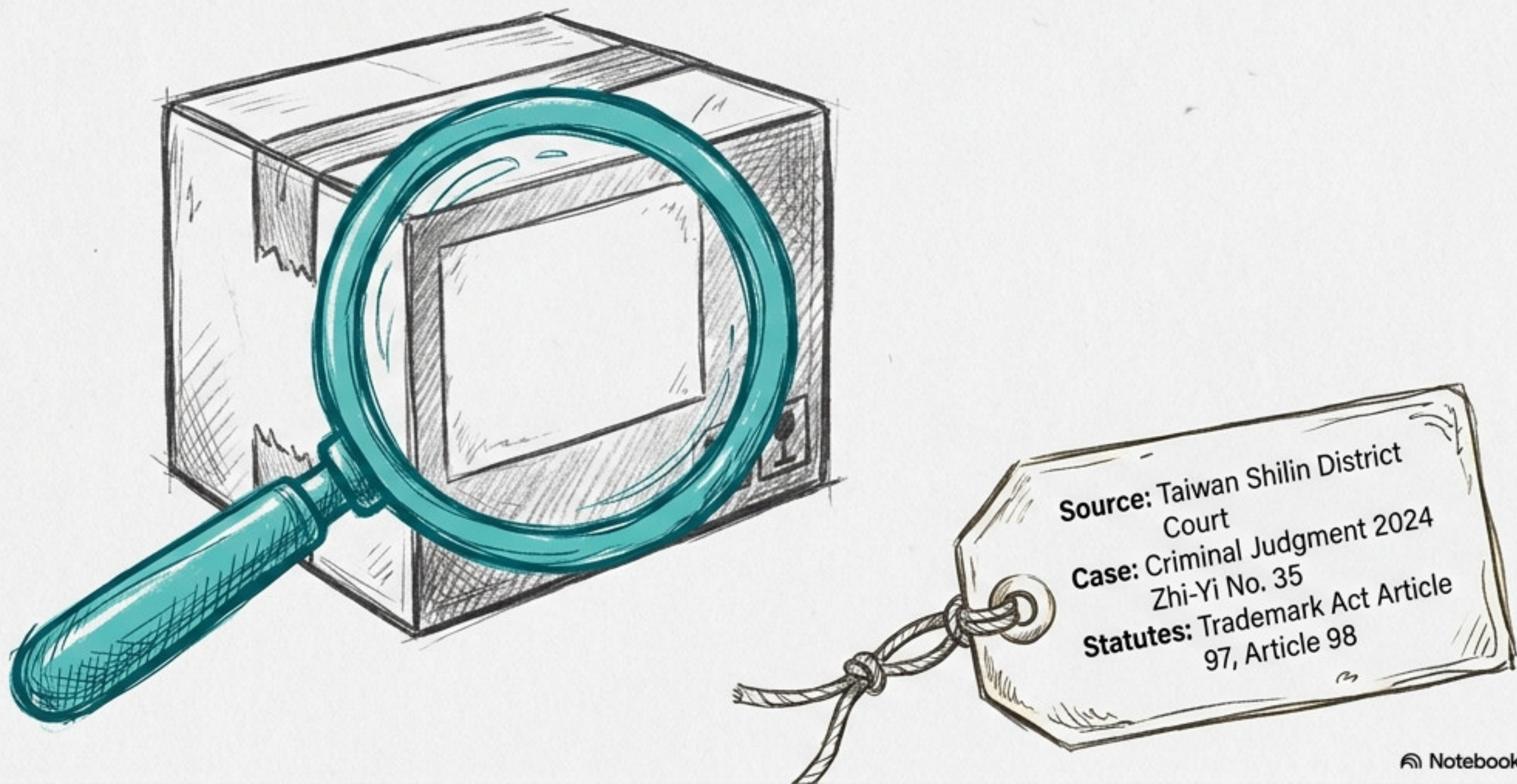


The Blind Box Defense: Unpacking Trademark Intent

An Educational Analysis of Trademark Act Infringement in Cross-Border E-Commerce



The E-Commerce "Blind Box" Dilemma

The Context: The Defendant routinely imported overdue, unclaimed parcels from Chinese consolidators to resell by weight.

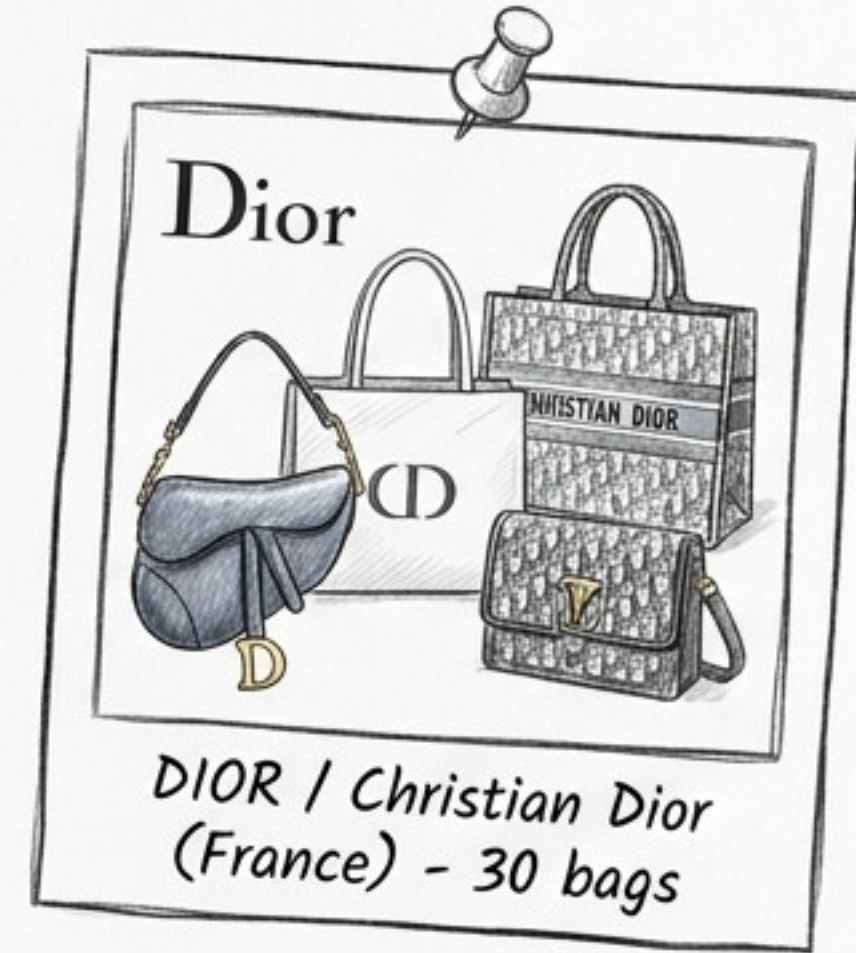
The Legal Hurdle: To commit trademark infringement under the law, the act requires a **specific, criminal state of mind** (*Mens Rea*).



How can a court prove what a buyer explicitly *knew* before the tape was ever cut?

The Seizure: January 9, 2023

Keelung Customs intercepted two shipments before delivery, utilizing X-ray scans and physical unboxing to reveal illicit inventory.



TOTAL SEIZED: 310 Counterfeit Luxury Items
intercepted before reaching the Defendant.

The Legal Framework: Trademark Act Article 97

"Anyone who

KNOWINGLY

sells, or possesses, displays, exports, or imports with the intent to sell, goods that infringe upon another's trademark rights..."

Legal Standard: Dolus Directus (Direct Intent)

Definition: The actor must possess an absolute, explicit awareness that the specific goods are counterfeit at the exact moment of import. Assumptions or careless risks do not meet this threshold.

The Prosecution's Allegations



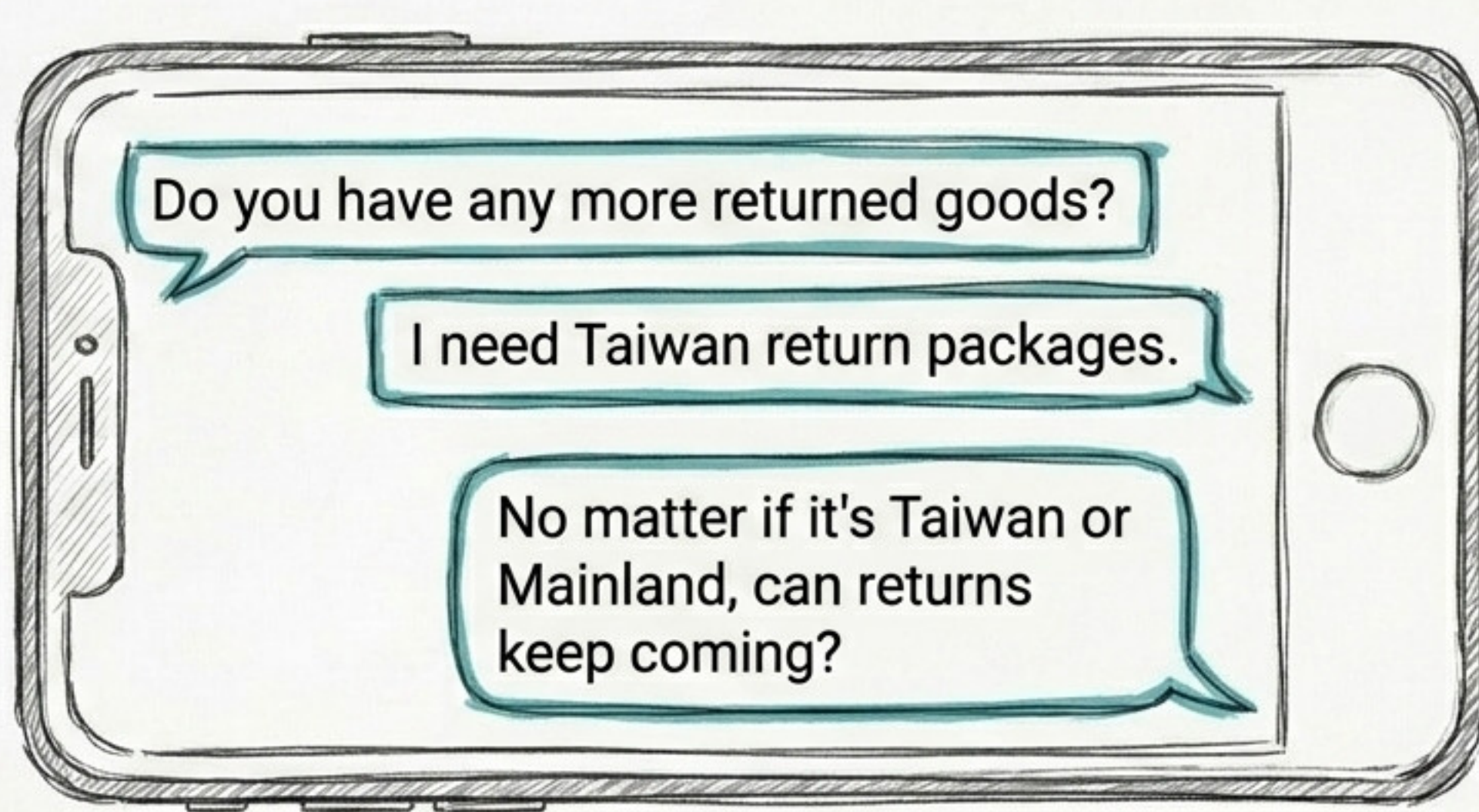
Prior History: The Defendant had a record of trademark offenses (2021 Zhi-Jian No. 2, detained 50 days; 2023 Zhen-Xu No. 29). They should have exercised **extreme caution**.

Suspicious Pricing: The Defendant paid only 80 to 100 TWD per kilogram for shipments containing hundreds of luxury bags.

Uncertain Intent (Dolus Eventualis): Even buying "blind" implies the Defendant accepted the high risk of importing illegal fakes, fulfilling the intent requirement.

The Defense: Buying by the Kilogram

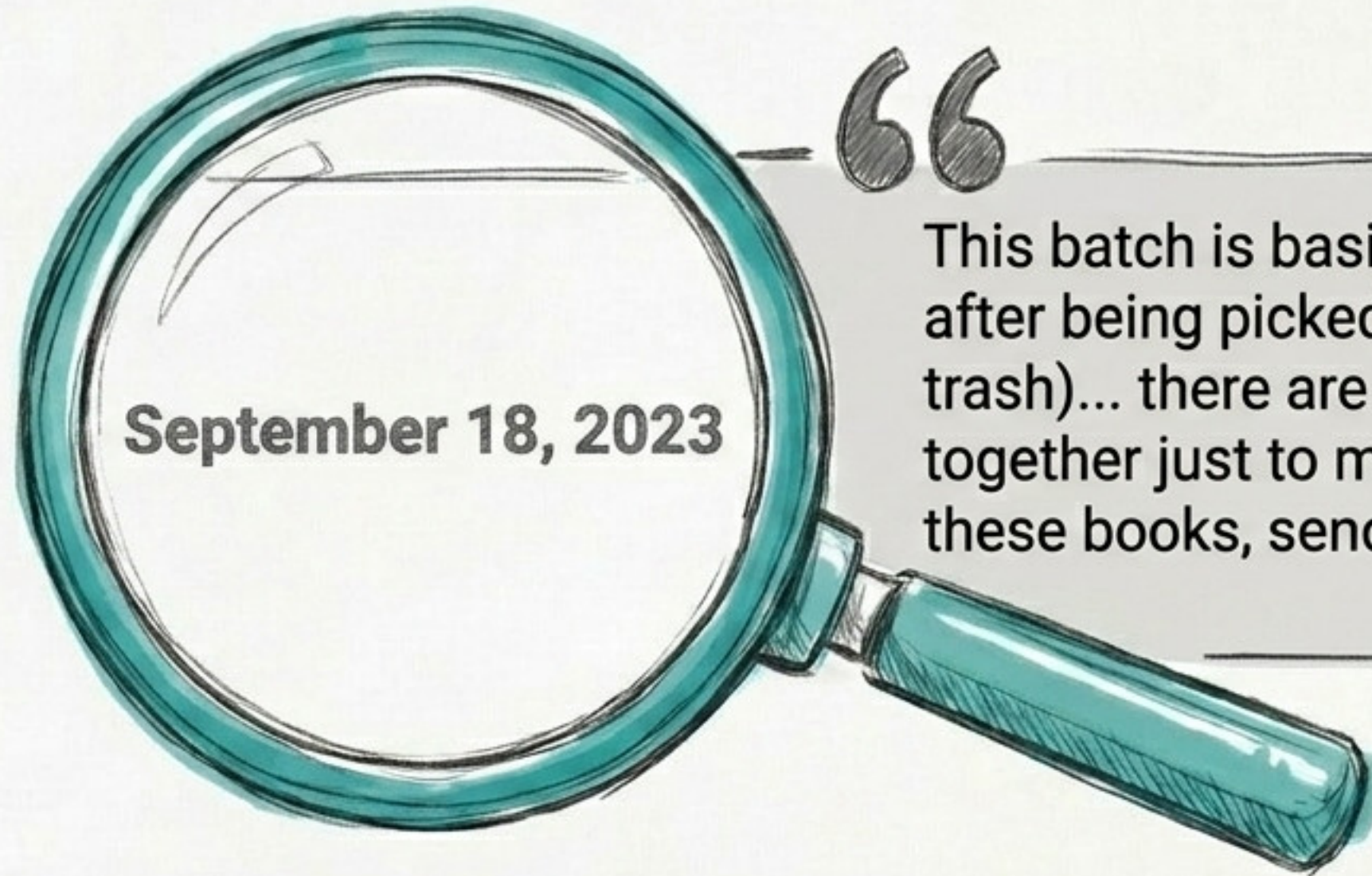
Digital forensics of chat logs between the Defendant and the Chinese consolidator revealed a chaotic, undifferentiated business model.



Key Insight: The Defendant did not order specific luxury items. They paid 50-100 TWD strictly for undifferentiated weight, unboxing whatever arrived.

The "Trash" Complaint: Crucial Evidence

The Court zeroed in on a message sent by the Defendant to the seller regarding a previous blind box delivery, which proved their lack of prior knowledge.



“

This batch is basically the worthless leftovers after being picked through (to put it bluntly, it's trash)... there are 4 to 5 boxes of books stuffed together just to make it heavier. If anyone wants these books, send someone to take them away.

”

If the Defendant was complaining about receiving literal books and trash, it is factually established they must cut the box open to discover its contents.

The Timeline Disconnect



Because the goods were intercepted at the border and the paperwork arrived a month late, it was physically impossible for the Defendant to have inspected, accepted, or "known" the specific contents of the January 9th shipment.

Supply Chain Anomalies

- ✓ **Wrong Importer Name:** The Jan 5 customs declaration was not even filed under the Defendant's name, but rather a third party: "Tong Zai Yi Qi Cosmetics and Apparel."
- ✓ **History of Misdeliveries:** Chat logs from Jan 13 & 18, 2023, show the consolidator frequently shipped incorrect items.
Defendant's message: "What are these? Did you send the wrong ones? I don't dare touch them."



The Court explicitly noted it could not rule out the possibility that the Chinese consolidator simply shipped the wrong boxes to the Defendant's address.

Clashing Narratives: Assumption vs. Fact

The Allegation (Prosecution)

- The Premise: 80 TWD/kg implies guilt; no one sells real luxury bags that cheap.
- The intent: Purchasing blind boxes means accepting the risk of importing fakes (Dolus Eventualis).
- The Action: Purposeful and calculated import of counterfeit inventory.

The Reality (Defense & Court)

- The Premise: 80 TWD/kg is the standard scrap rate for unpicked return mail (including 'trash' and 'books').
- The intent: Absolute ignorance of contents until the tape is physically cut.
- The Action: Unaware of the Jan 9th shipment; never possessed or saw the counterfeit goods.

The Mens Rea Gap: Drawing the Line

The Court's ruling clarified the strict boundaries of criminal intent required for cross-border e-commerce trademark violations.

Uncertain Intent (Dolus Eventualis)

"I know there might be fakes in these blind boxes, but I'll import them anyway."

Status: INSUFFICIENT for criminal conviction under Art. 97.

Direct Intent (Dolus Directus)

"I explicitly know these specific boxes contain counterfeit Chanel bags, and I am importing them."

Status: REQUIRED for criminal conviction under Art. 97.

The Judgment



- The Defendant is acquitted of all charges due to a complete lack of evidence proving Direct Intent to import known counterfeit goods.
- **Asset Forfeiture:** Despite the acquittal, protecting Intellectual Property remains paramount. Under Article 98, all 310 seized counterfeit Chanel, LV, and Dior items are confiscated by the State for destruction.

Final Takeaways & Case Implications

- ✓ The **“Knowing” Standard is Absolute**: Trademark Act Art. 97 strictly requires Dolus Directus. “Should have known” or “reckless importing” does not establish criminal liability.
- ✓ **Context Validates the Defense**: The **“Blind Box Defense”** works if backed by hard evidence. Mundane chat logs complaining about “books” and “trash” successfully proved the buyer was purchasing raw weight, not targeted counterfeits.
- ✓ **Sequence of Events is Critical**: Because Keelung Customs intercepted the goods before delivery, the Prosecution lost the ability to prove the Defendant accepted the counterfeit nature of the goods upon unboxing.
- ✓ **Market Protection Prevails**: **Criminal acquittal** does not mean market entry. The counterfeit goods were still legally confiscated, successfully protecting the brands’ IP.