

Deconstructing Subjective Criminal Intent



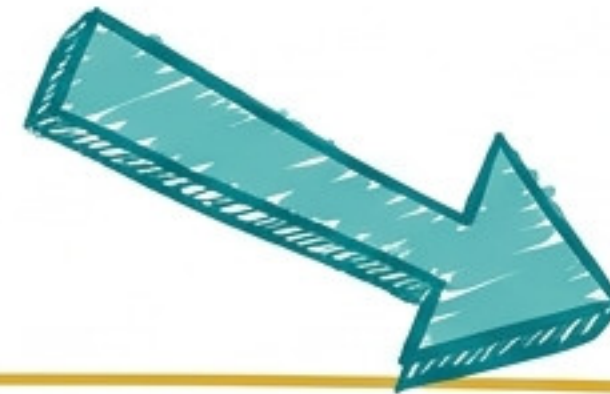
An Analysis of the BESTCAR Trademark Dispute

Source: Taiwan Taipei District Court
Criminal Judgment 113 Zhì Yì 52 (2024).

The Crux of the Legal Dilemma

Trademark Act, Article 95, Paragraph 1

Penalizes a person who, without the consent of the trademark proprietor, uses a trademark identical to a registered trademark in relation to identical services for marketing purposes.



The Key Variable:
Did the Defendant
possess the Subjective
Criminal Intent
(knowledge and
willfulness) to infringe?

The Asset in Question: BESTCAR

Class 035

Auto retail & wholesale; Auto parts retail & wholesale; Used car retail & wholesale.



Class 037

Auto maintenance & repair; Auto detailing.



Official Rights Period: July 1, 2022 – June 30, 2032.



Mr. Liu (BESTCAR Company)

- Provided 30% capital for the joint repair shop.
- Later registered the BESTCAR trademark under his name in 2022.

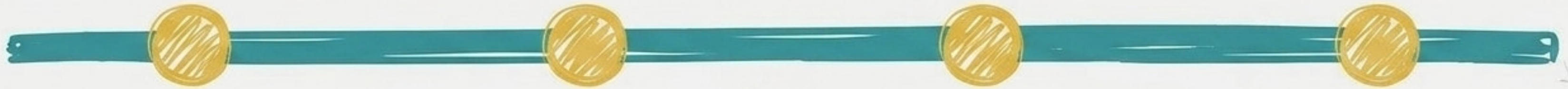


Mr. Fan (Shundao Tire Co., Ltd.)

- Actual person in charge. Provided 70% capital for the joint repair shop.
- Operated the "Ruten" and "Yahoo! Kimo" online storefronts selling auto parts.

Partnership Duration: March 2018 – August 2019

The Chronological Disconnect



March 2018

Joint venture begins.
Defendant creates
online stores using
the BESTCAR logo.

August 2019

Partnership dissolved.
BESTCAR absorbs
Defendant's 70%
share.

July 2022

Complainant
officially registers
the BESTCAR
trademark.

Jan - July 2023

Prosecution alleges
intentional
infringement occurs
during this window.

*Logo in active use 3 years
before registration.*

The Prosecution's Indictment



Starting in January 2023, the Defendant knowingly and without consent used the registered “BESTCAR” mark on online store listings (including control arms, engine mounts, brake rotors, and BENZ maintenance packages) for marketing purposes.



Prove Defendant used the mark. (Undisputed)



Prove Defendant had subjective knowledge of the 2022 registration and intended to infringe. (Disputed)

Diagnostic 1: The Warning

Complainant's Assertion

Stated that upon terminating the partnership in August 2019, they explicitly demanded the Defendant remove all online listings bearing the name.

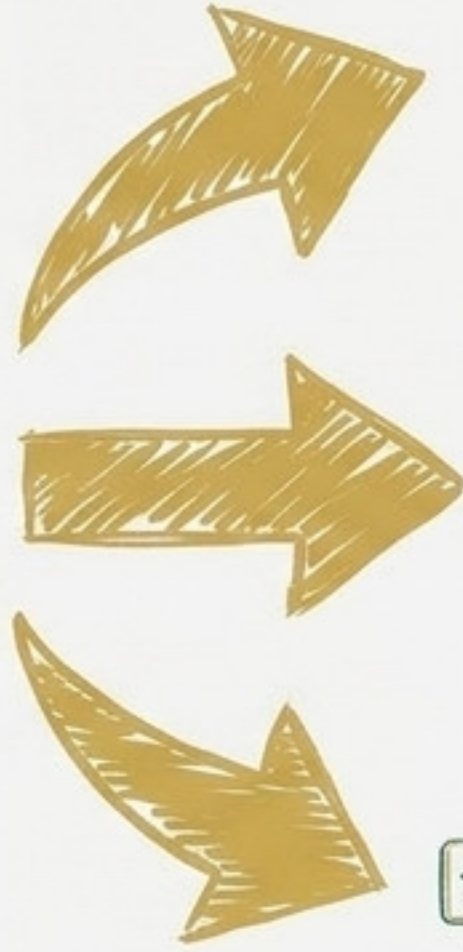
Objective Reality

In August 2019, the trademark had not yet been registered. Therefore, it was logically impossible for the Defendant to possess the subjective intent to infringe upon a non-existent trademark right at that time.



Diagnostic 2: Customer Confusion

Customers allegedly called BESTCAR to complain about bad products bought from the Defendant.



1. Contact Info: The online listings only provided the Defendant's mobile number, not the Complainant's.



2. Geography: Consumers needing installation visited Defendant's 'Shundao Tire' in Taipei City, not Complainant's 'BESTCAR' in New Taipei City.



3. Review Evidence: Negative online reviews explicitly named 'Shundao Tire'.

No evidence supported consumer confusion leading to the Complainant.

Diagnostic 3: The Phantom Manager



The Testimony: Witness Su claimed to be a Manager at BESTCAR since November 2022 and testified she called the Defendant to demand they stop using the trademark.



The Investigation: The court subpoenaed official Labor Insurance Records.



The Revelation: Records proved Ms. Su was employed continuously by "Wurth Co." since September 2012, with recent salary adjustments extending into 2025. She had zero employment history with BESTCAR.

Result: Testimony deemed entirely lacking credibility.

Diagnostic 4: The Logo Creator



The Testimony:

Witness Chen, a mechanic, testified he personally designed the BESTCAR logo for the Defendant while employed at the joint repair shop.

Key Details:

He placed his own phone number and the Defendant's number on the listings, confirming no link to the Complainant.



Court's Finding:

Chen worked there between May and August 2019 and had no knowledge of the 2022 trademark registration. His testimony confirmed the legitimate, collaborative origin of the online listings, completely negating the concept of intentional infringement.

Final Judgment

NOT GUILTY

The prosecution failed to provide sufficient evidence to prove the Defendant had the Subjective Criminal Intent to use a registered trademark without consent under Trademark Act Article 95, Paragraph 1. The use of the logo predated the trademark registration, and alleged subsequent warnings were disproven by objective evidence.

Key Takeaways & Implications



Intent is Paramount

Infringement under criminal law requires proven knowledge and willfulness. Prior use of a mark before its official registration creates a massive hurdle for proving malicious intent.



Data Overrules Dialogue

Oral testimony regarding warnings or customer confusion is easily dismantled by objective data (e.g., Labor Insurance Records, documented contact details).



Manage IP During Breakups

When dissolving a joint venture, formally address the ownership, registration, and cessation of use for all brand assets in writing immediately. Do not wait three years to register a mark.