Educational Briefing:
Intellectual Property Law

THE BURBERRY TRADEMARK DISPUTE

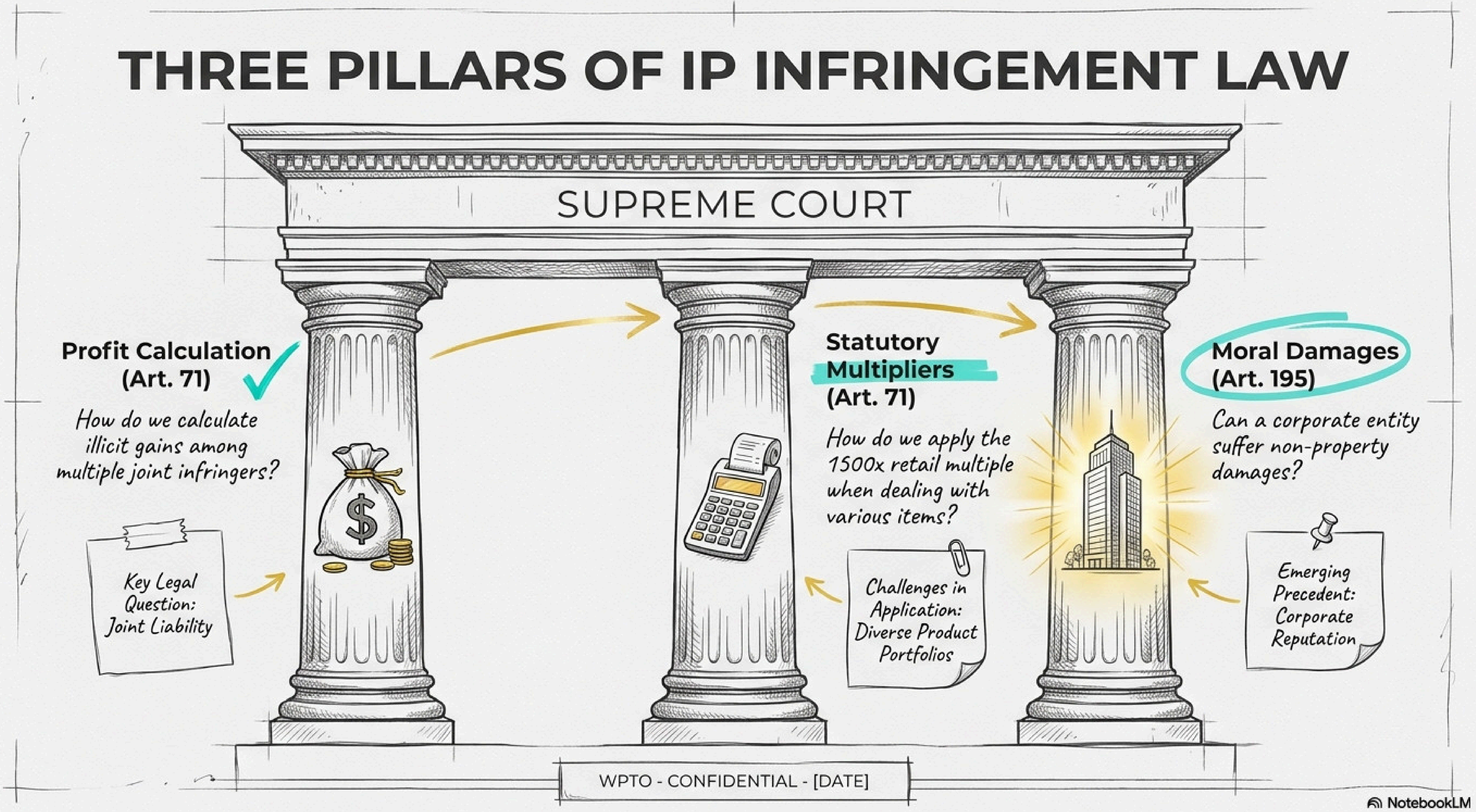
Plaintiff's Core Argument

Joint Infringement, Statutory Multipliers, and Corporate Reputation.

Plaintiff's Core Argument

Key Precedent

Supreme Court Civil Judgment
114 Tai-Shang No. 452 (2025)


THREE PILLARS OF IP INFRINGEMENT LAW
SUPREME COURT
Profit Calculation (Art. 71)
How do we calculate illicit gains among multiple joint infringers?
Key Legal Question: Joint Liability
Statutory Multipliers (Art. 71)
How do we apply the 1500x retail multiple when dealing with various items?
Challenges in Application: Diverse Product Portfolios
Moral Damages (Art. 195)
Can a corporate entity suffer non-property damages?
Emerging Precedent: Corporate Reputation
WPTO - CONFIDENTIAL - [DATE]
NotebookLM

THE ASSETS AT STAKE

BURBERRY

Reg. No. 01002226.
Class 014: Watches, clocks, imitation jewelry.

BURBERRY

Reg. No. 01049135.
Class 018: Luggage, handbags, wallets, umbrellas, pet clothing.

BURBERRY

Reg. No. 01052398.
Class 014: Watches, watch bands, jewelry, tie clips.

Owner: Burberry Limited (Plaintiff / Appellant).

THE CHAIN OF INFRINGEMENT

Wan Shang Tech Co., Ltd.

(Actual person in charge: Huang).

Claimed false authorization from "Fossil AG / Meishan Co."

Supplies fake bags, watches, scarves. →

Eastern Broadcasting

(U-Life / Eastern Shopping Channels).

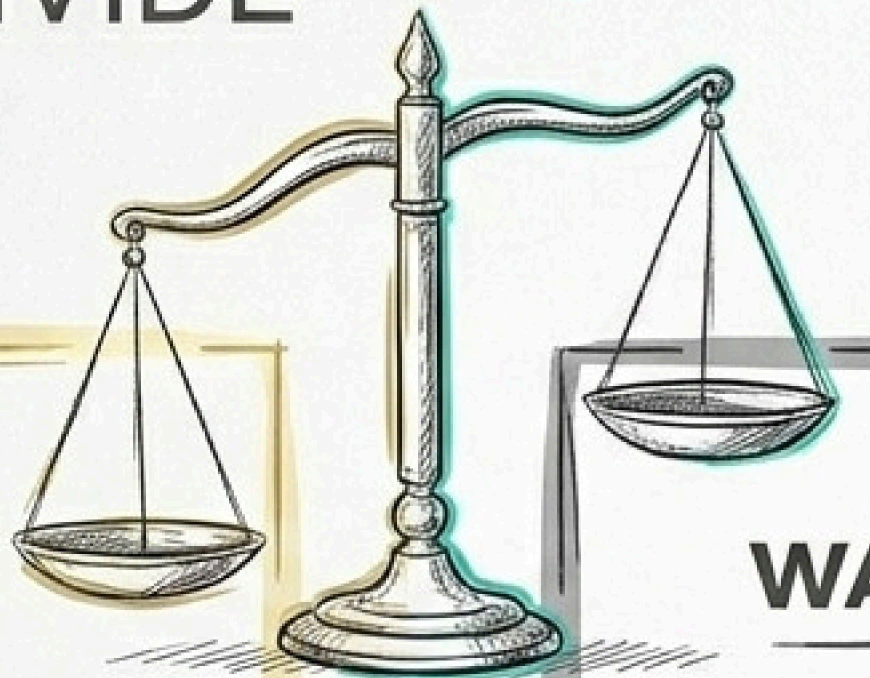
Failed duty of care as a seller; relied solely on supplier affidavits.

Mass distribution. →

Police Seizure (Jan 2015).

Fakes identified by poor touch, incorrect fonts, and wrong wash labels.

THE COURTROOM DIVIDE



BURBERRY LIMITED

- **Stance:** Seeking injunctions against sales, restoration of reputation, and joint financial compensation.

Winning position

- **Argument:** Defendants acted with joint negligence; corporate reputation was severely tarnished in the high-end luxury market.

Joint liability essential.

WAN SHANG & EASTERN

- **Stance:** Deny joint full liability.
- **Eastern's Argument:** "We only provided the platform. Deduct the vendor costs we paid to Wan Shang from our individual profit liability."

Platform defense

Individual liability

THE CATALYST FOR APPEAL

Intellectual Property & Commercial Court (Second Instance) Ruling:

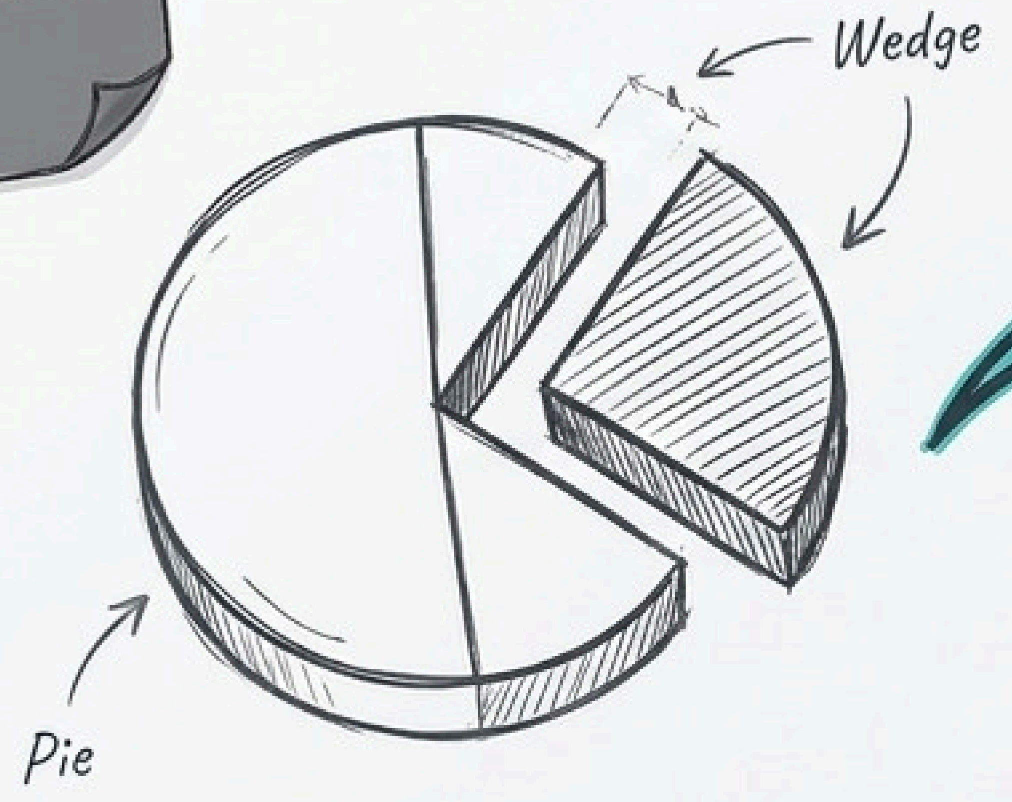
- **Ruling on Profit:** Deducted Eastern's vendor costs. Ordered damages based on individual net revenue shares rather than the total pool.
- **Ruling on Multipliers:** Refused to apply the 1500x multiplier because an 'average' retail price could not be established across varying unknown models.
- **Ruling on Reputation:** Denied moral damages, asserting "a corporation has no mental suffering."

Appealed to the Supreme Court...

ISSUE 1: CALCULATING ILLICIT GAINS

Legal Basis: Trademark Act, Art. 71(1)(2) & Civil Code, Art. 185(1).

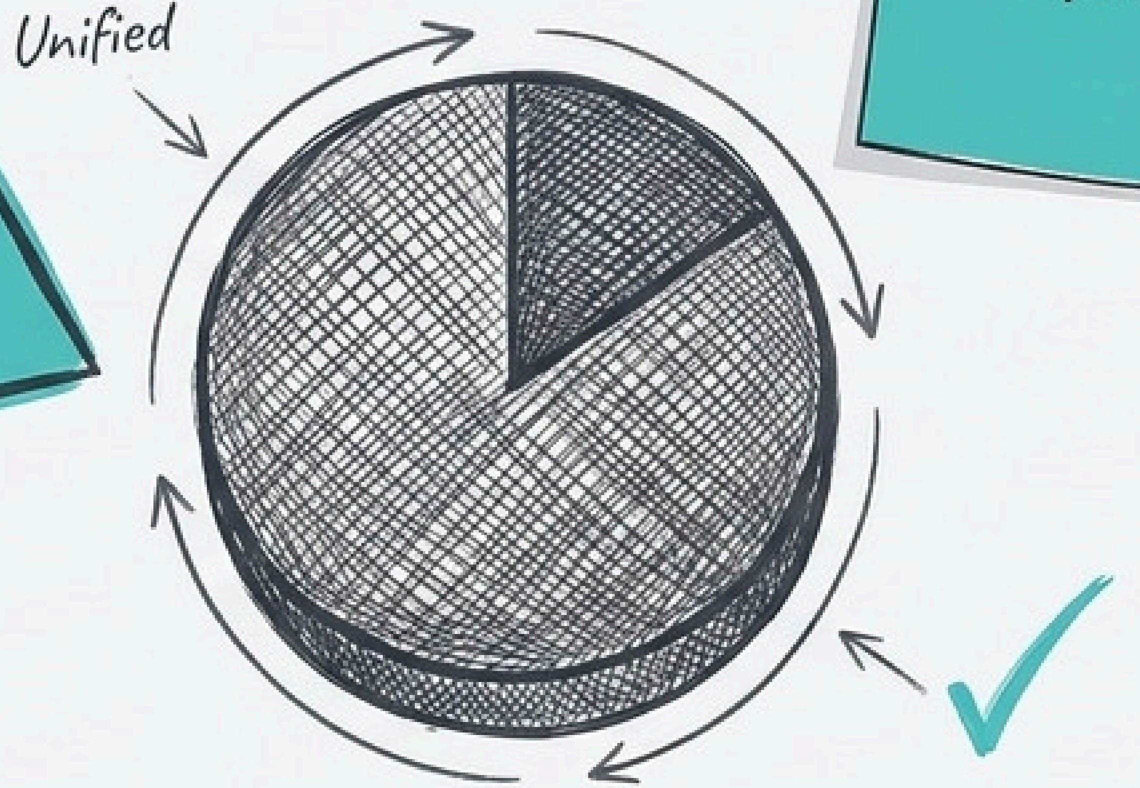
Flawed Interpretation



Model A: Individual Net Shares.

Splits the profit pie and deducts internal transfers (costs paid from Eastern to Wan Shang).

Correct Interpretation



Model B: The Total Pool.

The entire pie represents the gross illicit gain achieved together.

JOINT TORTFEASORS SHARE THE FULL BURDEN

The Supreme Court Ruling (114 Tai-Shang No. 452)

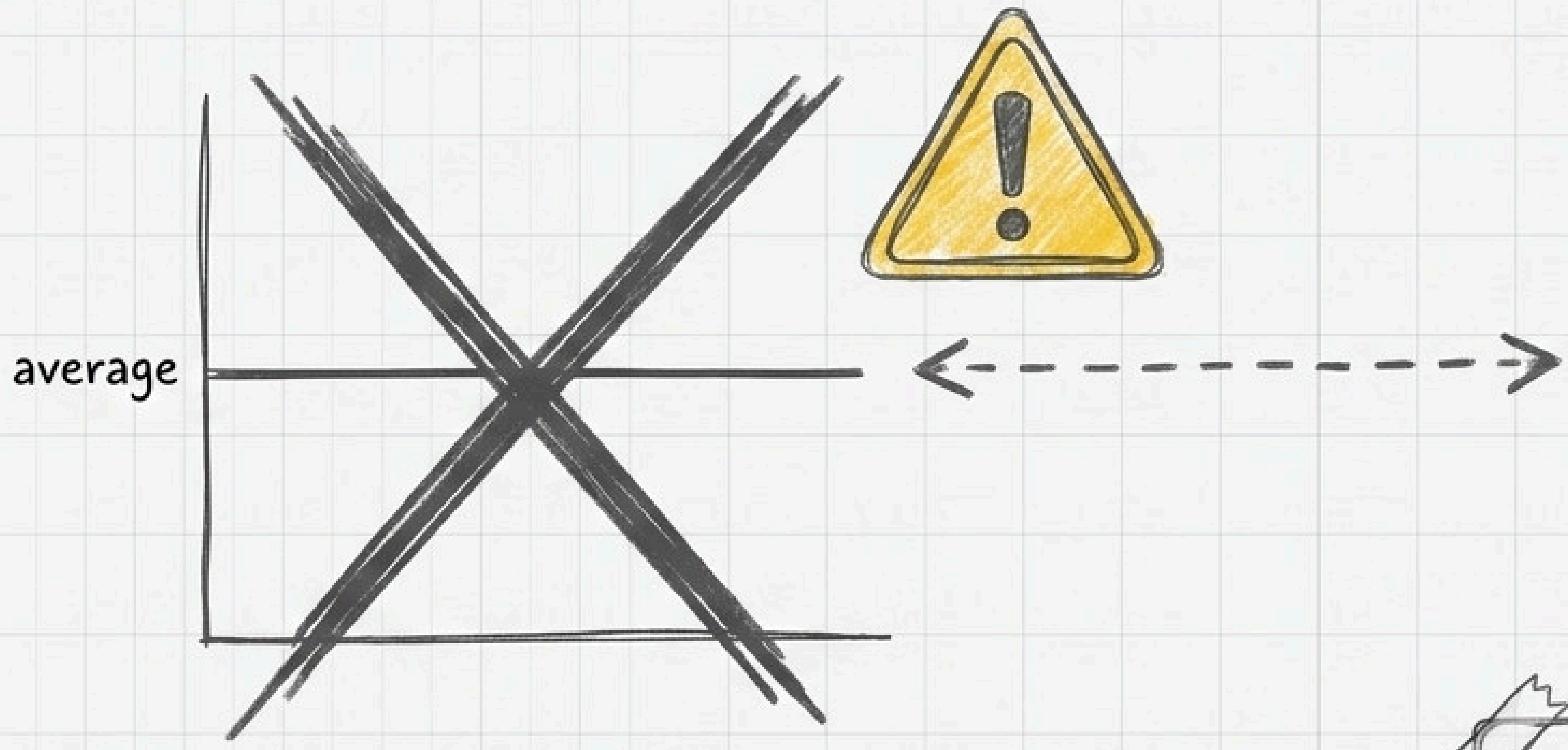
"When multiple parties jointly infringe a trademark, each tortfeasor is fully liable for the total damages."

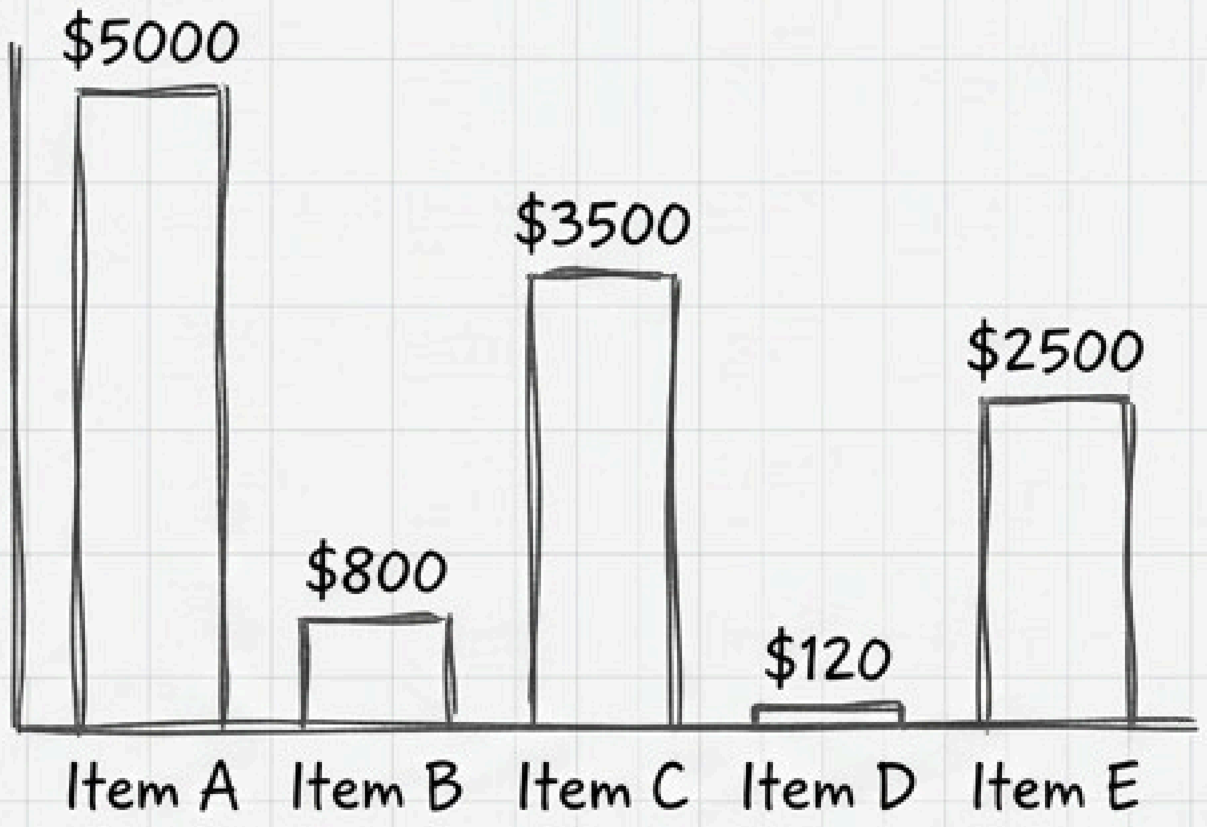
"Calculation based on illicit gains must use the total profit gained by the joint infringers as a whole, NOT based on internal cost-sharing or individual benefit ratios."

Impact: Eastern Broadcasting cannot deduct the money it paid to Wan Shang to reduce its own liability.

ISSUE 2: THE STATUTORY MULTIPLIER TRAP

Legal Basis: Trademark Act, Art. 71(1)(3) (1500x Retail Multiplier).



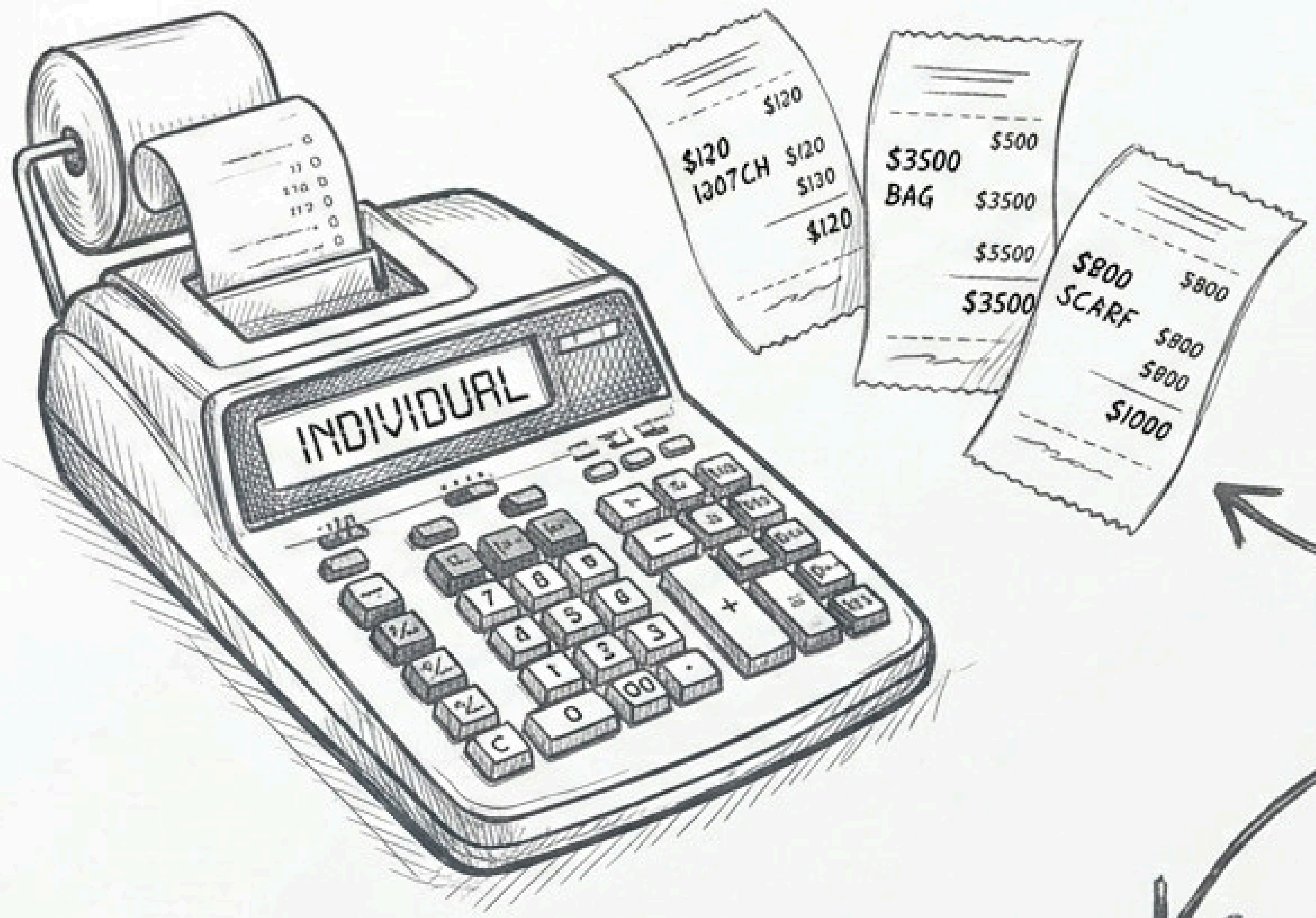


The Lower Court's Error: Demanded an "average" price across the board. When an average couldn't be cleanly calculated, the court discarded the 1500x statutory method entirely.

The Problem: The seized counterfeit goods included multiple types of items (watches, bags, scarves) with vastly different retail prices.

INDIVIDUAL ASSESSMENT OVER AVERAGES

The Supreme Court Ruling (114 Tai-Shang No. 452):



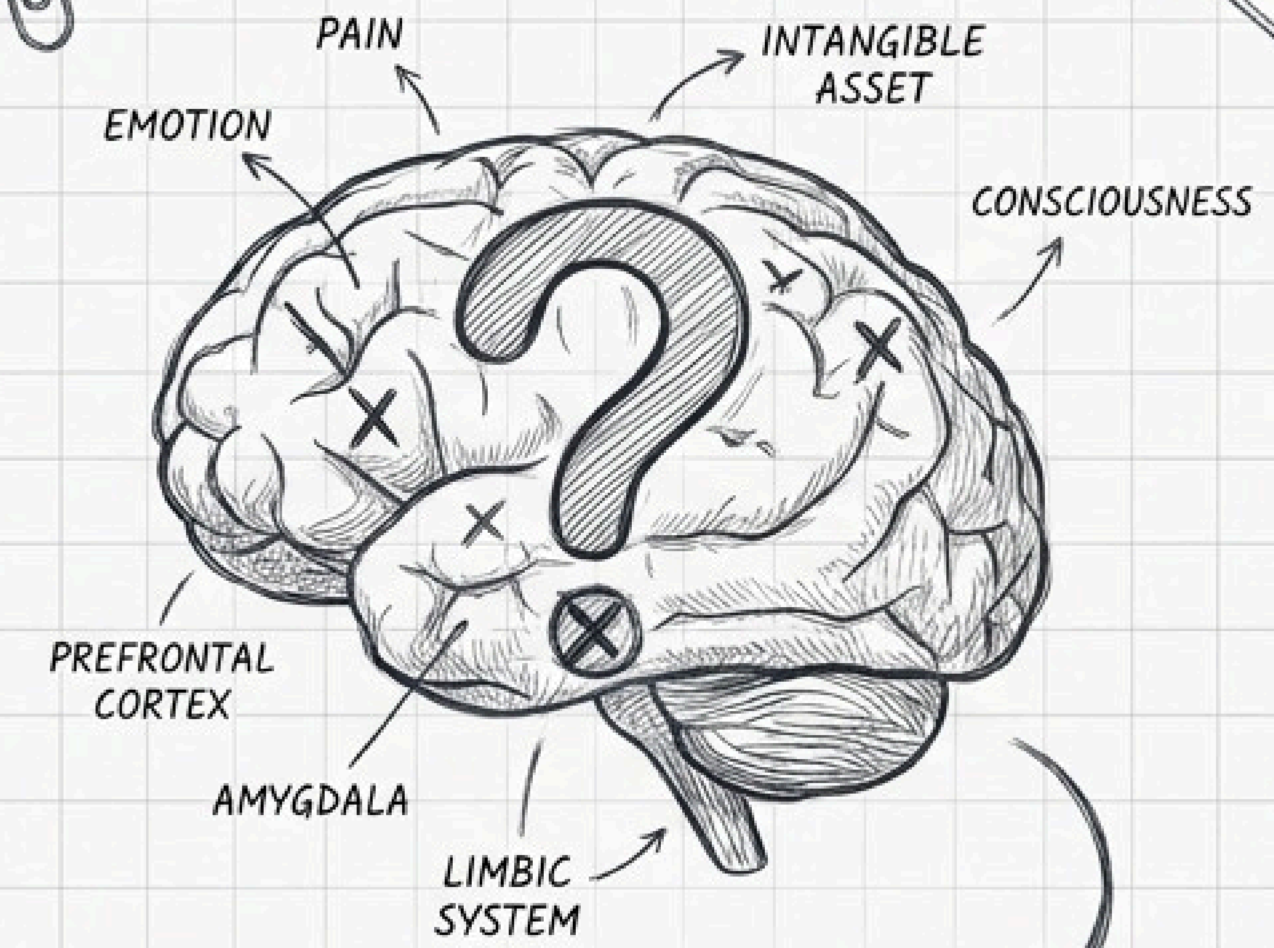
Retail unit price refers to the price of each specific infringing item.

If items have different prices, the multiplier must be calculated based on **each item's specific individual retail price**, not a unified average.

Judicial Discretion: If the total sum is disproportionately high, the judge can reduce it (Art. 71(2)), but cannot simply refuse to calculate it due to the difficulty of finding an average.

ISSUE 3: CAN A CORPORATION 'HURT'?

Legal Basis: Civil Code, Art. 195(1) (Non-property Damages)



The Traditional View

Non-property damages (moral rights) require "mental suffering." Since a corporation has no feelings, it cannot claim these damages.

The Modern Reality

Global brands suffer massive, quantifiable harm to their prestige, exclusivity, and market trust when low-quality fakes flood the market.

MODERNIZING REPUTATION RIGHTS

The Supreme Court Ruling (Citing Grand Chamber 112 Tai-Shang-Da 544):

"Corporate structures are increasingly globalized... While corporations lack biological senses, they **can claim non-property damages** if the infringement severely impacts their founding purpose and causes harm that cannot be simply quantified by money."

The Outcome: Burberry's claim for Non-property Damages for damage to its luxury reputation must be re-evaluated by the lower court.

SUPREME COURT DISPOSITION

FINAL ORDERS

Remanded: The issues of joint/several financial liability (total profit pool) and the calculation of non-property damages are discarded and remanded back to the IP & Commercial Court.

Upheld: Eastern Broadcasting is permanently enjoined from selling unauthorized Burberry goods.

Upheld: Defendants must publish the judgment on the front page of the United Daily News for one day to restore the Plaintiff's reputation.

THE DOCTRINAL SHIFT AT A GLANCE

Issue	Lower Court View	Supreme Court View
Joint Liability	Individual Net Profit	**Total Gross Profit Pool**
Statutory Multiplier	Unified Average Price	**Individual Specific Prices**
Corporate Reputation	Requires Mental Suffering	**Protects Fundamental Purpose**

STRATEGIC REVELATIONS FOR IP PRACTICE

1. No Safe Harbors for Platforms.
E-commerce platforms cannot hide behind vendor contracts or deduct internal payouts to avoid joint trademark liability. They face the total profit burden.

2. Granularity Wins.
Plaintiffs must document the specific retail price of every single infringed item. Averages are no longer a valid excuse for courts to deny statutory multipliers.

3. The Corporate Halo.
Brand prestige is now a legally protected, compensable non-property right.
Luxury brands can aggressively pursue damages for brand dilution.

Case Decided: Supreme Court, 2025.