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TIPLO Outstanding Cases (2023~2025)

TIPLO Outstanding case-1 2025 Patent-Invalidation

<p>Name and brief description of case/portfolio:</p>	<p>一匿名者（舉發人），先後二次向經濟部智慧財產局申請舉發要求撤銷日本大型鋼鐵製造商（本所客戶）之專利。經濟部智慧財產局審理後，先就 N01 案作成舉發不成立之處分（本所客戶勝訴），舉發人並放棄訴願。半年後，同一位舉發人又提出 N02 舉發案，目前正由智慧財產局審理中。</p> <p>An anonymous challenged twice a patent owned by a large-size Japanese steel maker (and a client of TIPLO). The first invalidation request was dismissed as untenable. (Case 01) That is, the patent owned by Client challenged stands still. The challenger did not appeal but filed in six months a second invalidation request against the same patent owned by Client. (Case 02). Case 02 is now pending examination in Taiwan IPO for decision.</p>
<p>IP advisers from TIPLO involved:</p>	<p>林志剛律師/專利師 廖文慈律師/專利師 何純瑛資深專利工程師 J.K. LIN, Attorney-at-Law / Certified Patent Attorney Grace W.T. LIAO, Attorney-at-Law / Certified Patent Attorney Chun-Ying HO, Senior Patent Engineer</p>
<p>Other IP firms involved:</p>	<p>N/A.</p>
<p>Date(s)</p>	<p>案件進程時序： 2022.11：(N01 案)被提起舉發 2023.02：(N01 案)被舉發答辯(1)&申請更正 2023.06：(N01 案)對造提舉發補充理由(1) 2023.09：(N01 案)被舉發答辯(2) 2023.11：(N01 案)對造提舉發補充理由(2) 2023.12：(N01 案)被舉發答辯(3)&申請更正 2024.08：(N01 案)智慧局作成舉發不成立之處分 2025.03：(N02 案)被提起舉發 2025.08：(N02 案)被舉發答辯(1) Timeline: -- Nov. 2022: Challenger filed invalidation request. (Case 01)</p>

	<p>Feb. 2023: Patentee presented response (I) and filed request for amending the subject patent. (Case 01) Jun. 2023: Challenger presented supplemental statement (I). (Case 01)</p> <p>Sep. 2023: Patentee presented response (II). (Case 01) Nov. 2023: Challenger presented supplemental statement (II). (Case 01) Dec. 2023: Patentee presented response (III) and a second request for amending the subject patent. (Case 01) Aug. 2024: Challenger's invalidation request dismissed. (Case 01) Mar. 2025: Challenger filed a second invalidation request. (Case 02) Aug. 2025: Patentee presented response (I). (Case 02)</p>
<p>Why was it important?</p>	<p>1. 系爭專利係關於一冷成型加工用機械構造用鋼之發明專利。舉發人為一匿名者，但從舉發證據的內容推估，相當有可能是中國或台灣的鋼鐵製造商。舉發人首先提出 N01 舉發案，經本所答辯後，智慧局歷經 2 年的審理，就 N01 案作成舉發不成立的處分，成功的為客戶於該技術領域維持獨占的權利，舉發人並放棄訴願，全案確定。之後同一位舉發人又提出 N02 舉發案，目前正由智慧財產局審理中。</p> <p>2. 舉發人於 N01 案共提出 9 件舉發證據。本案之爭點在於系爭專利請求項 1 中所界定之「冷成型加工用機械構造用鋼」及其製造方法之技術特徵是否已被諸引證案之組合揭露而不具進步性。該案之技術重點在於請求項 1 中關於波來鐵之面積率之數值限定特徵、及肥粒鐵結晶粒之平均粒徑之數值限定特徵 是否已被舉發證據所揭露。本所點出舉發人關於計算方式的嚴重錯誤，詳細分析諸舉發證據與系爭專利於其技術特徵之區別及所能達成之功效上之差異，使審查委員充分理解。最終本所成功的說服智慧局，為客戶取得勝訴。舉發人並放棄訴願。</p> <p>3. 相隔約半年後，同一位舉發人又提出 N02 舉發案，其中有數件舉發證據係與 N01 舉發案重疊，目前正由智慧財產局審理中。本所對 N02 舉發案能獲得勝訴亦有相當的把握。</p> <p>1. The patent in issue is an invention on cold forming steel for processing use, mechanical structure use. The challenger's identity is unknown but according to the evidence produced for the invalidation request, the challenger is very possibly a Chinese or a Taiwanese steel maker.</p> <p>It took two years for the Taiwan IPO to wrap up the examination of Case N01 in consideration of the answer and comment we presented for Client. Case 01 ended being dismissed, which dismissal is conclusive and irrevocable with no appeal filed by the challenger. We successfully defended the patent challenged and accordingly Client's dominant standing in the technical field concerned.</p> <p>The challenger subsequently filed a second invalidation request (i.e. Case 02) and the case is pending examination in the Taiwan IPO for decision.</p>

	<p>2. In Case 01, the challenger produced a total of nine (9) cited prior arts for evidence. The main issue in this case was whether or not the technical features of the steel for machine structure for cold forming and its manufacturing methods described in claim 1 of the patent challenged had been disclosed by a combination of the cited prior arts and so the patent lacks inventive step.</p> <p>The technical focus of the case was whether the numerical features defined in claim 1—namely, the area ratio of pearlite and the average grain size of ferrite—had been disclosed by the challenger’s evidence. We pointed out serious errors in the challenger’s calculation methods and conducted a detailed analysis of the differences in technical features between the cited evidence and the patent in question, as well as the differences in the effects that could be achieved. This allowed the examiners to fully understand the distinctions.</p> <p>As a result, we successfully persuaded the IPO, securing a decision favorable for our client. The challenger decided to take no appeal.</p> <p>3. About six months thereafter, the same challenger filed a second invalidation request (Case 02) in which several evidences presented overlap with those presented in Case 01. Case 02 is currently under examination by the Taiwan IPO for decision. We are confident the Taiwan IPO will find to dismiss it as well to let stand still the patent owned by Client.</p>
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TiPLO Outstanding case-2 2025 Patent-Invalidation

Name and brief description of case/portfolio:	<p>一台灣之機車製造商向經濟部智慧財產局申請舉發要求撤銷一日本公司之發明專利。本案目前正在智慧局審理中。</p> <p>A Taiwanese motorcycle maker sought for invalidation of an invention patent owned by a Japanese company (and a client of TiPLO). The case is currently under examination by the Taiwan IPO for decision.</p>
IP advisers from TiPLO involved:	<p>林志剛律師/專利師 廖文慈律師/專利師 彭建國專利師 J.K. LIN, Attorney-at-Law / Certified Patent Attorney Grace W.T. LIAO, Attorney-at-Law / Certified Patent Attorney Adam PENG, Certified Patent Attorney</p>
Other IP firms involved:	N/A.
Date(s)	<p>案件進程時序：</p> <p>2023.03：被提起舉發 2023.07：被舉發人提答辯理由(一)&更正(一) 2023.11：舉發人提舉發補充理由(一) 2023.11：智會局發函要求舉發人提出證據能力佐證資料 2024.01：舉發人提舉發補充理由(二) 2024.03：被舉發人提答辯理由(二)&更正(二) 2024.07：現場勘驗</p>

	<p>2024.08：舉發人提舉發補充理由(三) 2024.10：被舉發人提答辯理由(四) &更正(三) 2024.11：舉發人提舉發補充理由(四) &申請聽證 2025.02：被舉發人提答辯理由(五) 2025.09：舉行舉發聽證程序 Timeline: -- Mar. 2023: Challenger filed invalidation request. Jul. 2023: Patentee presented response (I) and filed request (I) for amending the subject patent. Nov. 2023: Challenger presented supplemental statement (I). Nov. 2023: Taiwan IPO issued written notice to challenger requesting for proof of evidentiary power. Jan. 2024: Challenger presented supplemental statement (II). Mar. 2024: Patentee presented response (II) and filed request (II) for amending the subject patent. Jul. 2024: On-site inspection conducted. Aug. 2024: Challenger presented supplemental statement (III). Oct. 2024: Patentee presented response (IV) and filed request (III) for amending the subject patent. Nov. 2024: Challenger presented supplemental statement (IV) and requested for a hearing to be held. Feb. 2025: Patentee presented response (V). Sep. 2025: Taiwan IPO held a hearing.</p>
<p>Why was it important?</p>	<p>本案係一機車之發明專利，舉發人及被舉發人為市場上的高度競爭對手，兩家公司在台灣陸續有多起訴訟。 由於舉發人在本案所提出的主要證據為 2 台機車實物，本所首先以攻擊該 2 台機車實物證據的證據能力做為主要的訴訟策略。舉發人因此向智慧局申請現場勘驗實物證據，欲藉此補足證據能力之瑕疵。</p> <p>隨後在本所積極的答辯之後，舉發人又向智慧局申請進行舉發聽證程序。舉發聽證程序有別於面詢程序，是專利舉發程序中的公開辯論程序，智慧局一年舉行僅約 5 次的聽證程序。因此本案的程序攻防在舉發案件中相當罕見，需仰賴兼備優秀的法律及技術能力的代理人，始能為客戶進行最佳的防禦，確保其專利權能被維持。</p> <p>本案的主要爭點係關於實物作為舉發證據的證據能力問題。就此，本所指出專利審查基準有明文規定：「引證文件揭露之程度必須足使該發明所屬技術領域中具有通常知識者能製造及使用申請專利之發明」、「若未經說明或實驗，該發明所屬技術領域中具有通常知識者仍無法得知物之發明的結構、元件或成分等及方法發明的條件或步驟等技術特徵者，則不構成公開實施，例如技術之特徵部分於內部之物品，由於僅能觀察其外觀，即使在公眾面前實施亦無從得知該技術者即屬之。」。故本所在訴訟策略上聚焦攻擊證據本身未有任何關於其技術問題之揭示，且該發明所屬技術領域中具有通常知識者無法根據證據之外觀或元件配置等直接無歧異得知各元件之功能、作用、及其所要解決的技術問題為何。</p> <p>This case involves a motorcycle invention patent, where the challenger and the patentee are highly competitive market rivals. The two companies are opposing party to each other in various</p>

	<p>lawsuits in Taiwan.</p> <p>In this case, the main evidence presented by the challenger were two motorcycles. We strategically focused our defence on questioning the evidentiary value of the two motorcycles. In response, the challenger requested for the Taiwan IPO to conduct an on-site inspection of the physical evidence in an attempt to remedy the deficiencies in the evidentiary value.</p> <p>In response to our active defense, the challenger requested for a held to be held. Unlike an interview, a hearing is a public oral argument session within the procedure for patent invalidation, and the Taiwan IPO conducts only about five (5) such hearings a year. Therefore, the proceeding of defense and attack in this case is procedurally rare in invalidation proceedings and calls for the representation by an attorney with strong legal and technical expertise to provide optimal defense for the patentee whose patent held is being challenged to ensure its patent rights sustain intact.</p> <p>The main issue in this case concerned the evidentiary value of physical specimens produced as evidence in the invalidation proceeding. In this regard, we pointed out that according to the Patent Examination Guidelines,</p> <p>a) The disclosure in a cited document must be sufficient for a person having ordinary skill in the relevant technical field (PHOSITA) to make and use the claimed invention; and</p> <p>b) Where, given no explanation or experimentation, a PHOSITA cannot ascertain such technical features as the structure, components, or composition of an article invention, or the conditions or steps of a process invention, the disclosure does not constitute public practice. For example, if an object bears its technical feature inside, as it can only be observed externally, even if it is openly practiced, the technical feature will remain unknown to a PHOSITA.</p> <p>Accordingly, our litigation strategy focused on challenging the evidence itself, as it has disclosed nothing regarding the technical issues and no PHOSITA could directly and unambiguously determine the function, operation, or the technical problem to be solved by each component based solely on the appearance or configuration of the specimen.</p>
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TIPLO Outstanding case-3 2025 Patent-Invalidation

<p>Name and brief description of case/portfolio:</p>	<p>一匿名者，向經濟部智慧財產局申請舉發要求撤銷另一日本食品加工器材製造商（本所客戶）之專利（N01 案）。案件由經濟部智慧財產局審理後作成舉發不成立的處分（本所客戶勝訴）。舉發人並放棄訴願。同一位舉發人又對相同之專利提出舉發（N02 案），目前正在智慧財產局審理中。</p> <p>An anonymous challenger filed an invalidation request with the Taiwan IPO seeking the invalidation of a patent held by another Japanese food processing equipment manufacturer (and a client of</p>
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	<p>TiPLO), which invalidation request Taiwan IPO examined, determined untenable and dismissed. The challenger took no appeal and the dismissal became final and conclusive. (Case 01)</p> <p>The same challenger filed another invalidation request against the same patent four years later, which is currently under examination by the Taiwan IPO for decision. (Case 02)</p>
IP advisers from TiPLO involved:	<p>林志剛律師/專利師 廖文慈律師/專利師 張啟宏組長/資深專利工程師 J.K. LIN, Attorney-at-Law / Certified Patent Attorney Grace W.T. LIAO, Attorney-at-Law / Certified Patent Attorney Jordan CHANG, Senior Patent Engineer and Group Leader</p>
Other IP firms involved:	N/A.
Date(s)	<p>案件進程時序： 2020.06：被提起舉發（N01） 2020.07：提呈被舉發答辯（N01） 2020.12：智慧局作成舉發不成立之處分（N01） 2025.03：被提起舉發（N02） Timeline: -- Jun. 2020: Challenger filed invalidation request. (Case 01) Jul. 2020: Patentee presented answer. (Case 01) Dec. 2020: Invalidation request dismissed by Taiwan IPO. (Case 01) Mar. 2025: Same challenger filed invalidation request. (Case 02)</p>
Why was it important?	<p>系爭專利係關於一「食品麵糰片之成型方法」之發明專利。舉發人共提出 8 件舉發證據。本所詳盡的分析系爭專利與諸舉發證據於技術特徵上及所欲解決問題上之差異，使審查委員清楚的理解諸引證案與系爭專利之差別，並仔細的分析為何熟悉該項技術者不具將諸舉發證據加以組合以完成系爭專利之動機，且上開主張完全被智慧局接受，進而於 5 個月內即作成舉發不成立之處分，於實務上甚為罕見（按：通常需 1.5~2 年）。</p> <p>於智慧局就作成舉發不成立之處分後（N01）4 年，同一位舉發人又提出舉發（N02），顯見本件專利相當重要。而 N02 正在智慧局審理中。 The patent challenged relates to an invention entitled “Method for Forming Food Dough Sheets.” The challenger submitted a total of eight evidences to support the invalidation request.</p> <p>We conducted a detailed analysis of the differences between the patent challenged and those of the cited prior art in terms of technical features and the problems they each intend to solve. Our analysis helped the examiners to get hold of the distinctions between the cited references and the challenged patent. We also carefully demonstrated why a person having ordinary skilled in the art (PHOSITA) would have no motivation to combine the cited references to arrive at the claimed invention.</p> <p>The Taiwan IPO took our statement on the above standing in full and</p>

	<p>issued the decision dismissing the invalidation action, which decision came in less than five months of the invalidation request, a short time span rare in practice (as opposed to a typical timeframe of 1.5 to 2 years).</p> <p>The same challenger sought for invalidation of the same patent again four years after the Case 01 invalidation request turned out unsuccessful. (Case 02) Obviously, the patent challenged is fairly important. The invalidation is currently under examination by the Taiwan IPO for decision.</p>
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TIPLO Outstanding case-4 2025 Patent-Invalidation

<p>Name and brief description of case/portfolio:</p>	<p>一個台灣的化工材料製造商，向經濟部智慧財產局申請舉發要求撤銷另一奧地利的化工材料製造商（本所客戶）之專利(N01 案)。案件由經濟部智慧財產局審理後，作成舉發不成立之處分（本所客戶勝訴）。舉發人嗣後向經濟部訴願審議委員會提起訴願，訴願會仍維持智慧財產局之處分而駁回舉發人之訴願（本所客戶勝訴）。舉發人嗣後復向智慧財產法院起訴，智慧財產法院判決駁回起訴（本所客戶勝訴）。舉發人復向最高行政法院提起上訴，亦被最高行政法院駁回上訴（本所客戶勝訴），全案確定。</p> <p>同一位舉發人繼而又提出其他舉發證據，向經濟部智慧財產局申請第二次舉發（N02 案）、第三次舉發（N03 案）。而 N02 案業已三審定讞，本所客戶獲得全面勝訴。N03 案日前亦被智慧局審定舉發不成立。</p> <p>A Taiwanese manufacturer of chemical materials sought for the invalidation of the patent owned by an Austrian fellow member in the trade. (Case 01) We represented the patentee in the proceeding in the Taiwan IPO and successfully helped the client defend the valid good standing of the patent challenged. The challenger appealed but in vain. The challenger then filed administrative action only to see its action dismissed by the IP Court. The challenger took an appeal to the Supreme Administrative Court (SAC) which appeal was dismissed by the SAC. Taiwan IPO's decision dismissing the invalidation request accordingly became conclusive and final and our client's patent challenged remains valid in good standing.</p> <p>Thereafter the same challenger presenting additional evidences filed a second followed by a third invalidation request against our client's patent (Case 02 and Case 03): Taiwan IPO dismissed the second invalidation request (Case 02) and that decision, with the challenger's appeals and administrative action dismissed, is now conclusive and final. Taiwan IPO has recently dismissed Case 03 whereby our client's patent at issue is upheld valid in good standing.</p>
<p>IP advisers from TIPLO involved:</p>	<p>廖文慈律師/專利師 楊益昇律師 陳德龍主任 Grace W.T. LIAO, Attorney-at-Law / Certified Patent Attorney Y. S. YANG, Attorney-at-Law / Certified Patent Agent Welly CHAN, Senior Patent Engineer and Chief of TIPLO's Patent Dept. Sec. I</p>

Other IP firms involved:	N/A.
Date(s)	<p>案件進程時序：</p> <p>2018.10：被提起舉發(N01)</p> <p>2019.04：提呈被舉發答辯(一) (N01)</p> <p>2019.06：舉發人提補充理由(N01)</p> <p>2019.09：提呈被舉發答辯(二) (N01)</p> <p>2019.10：審定舉發不成立(N01)</p> <p>2020.05：訴願被駁回(N01)</p> <p>2020.08：智慧法院駁回起訴(N01)</p> <p>2021.03：被提起舉發(N02)</p> <p>2021.06：提呈被舉發答辯(一) (N02)&更正</p> <p>2022.01：舉發人提補充理由(一) (N02)</p> <p>2022.03：舉發人提補充理由(二) (N02)</p> <p>2022.03：最高行政法院駁回上訴(N01)</p> <p>2022.06：提呈被舉發答辯(二) (N02)</p> <p>2023.01：審定舉發不成立(N02)</p> <p>2023.06：訴願被駁回(N02)</p> <p>2024.04：智慧法院駁回起訴(N02)</p> <p>2024.05：被提起舉發(N03)</p> <p>2024.08：提呈被舉發答辯(一) (N03)</p> <p>2025.02：審定舉發不成立(N03)</p> <p>2025.05：最高行政法院駁回上訴(N02)</p> <p>Timeline: --</p> <p>Oct. 2018: Challenger filed invalidation request. (Case 01)</p> <p>Apr. 2019: Patentee presented response statement (I). (Case 01)</p> <p>Jun. 2019: Challenger presented supplemental statement. (Case 01)</p> <p>Sep. 2019: Patentee presented response statement (II). (Case 01)</p> <p>Oct. 2019: Challenger's invalidation request held untenable and dismissed and challenger appealed. (Case 01)</p> <p>May 2020: Challenger's appeal dismissed and challenger brought the matter to the IP Court. (Case 1)</p> <p>Aug. 2020: The IP Court dismissed challenger's action and challenger took an appeal to the SAC. (Case 1)</p> <p>Mar. 2021: Challenger filed a second invalidation request. (Case 02)</p> <p>Jun. 2021: Patentee presented response (I) (Case 02) and filed request for amending the subject patent.</p> <p>Jan. 2022: Challenger presented supplemental statement (I). (Case 02)</p> <p>Mar. 2022: Challenger presented supplemental statement (II). (Case 02)</p> <p>Mar. 2022: Challenger's appeal to SAC dismissed. (Case 01)</p> <p>Jun. 2022: Patentee presented response (II). (Case 02)</p> <p>Jan. 2023: Challenger's second invalidation request dismissed and challenger appealed to the Appeal Board. (Case 02)</p> <p>Jun. 2023: Appeal Board dismissed challenger's appeal (Case 02) and challenger initiated action.</p> <p>Apr. 2024: IP&C Court dismissed challenger's action and challenger took an appeal to SAC. (Case 02)</p>

	<p>May 2024: Challenger filed a third invalidation request. (Case 03) Aug. 2024: Patentee presented response (I). (Case 03) Feb. 2025: Challenger's third invalidation request dismissed. (Case 03) May 2025: Challenger's appeal taken to SAC dismissed. (Case 02)</p>
<p>Why was it important?</p>	<ol style="list-style-type: none"> 1. 系爭專利係關於一製造纖維素纖維的方法之發明專利，該件專利同時有民事侵權訴訟繫屬。舉發人對係爭專利先後提出三次舉發申請（N01案、N02案、N03案），本案件亦被智慧局評選為年度經典案例。 2. 系爭專利權人於侵權訴訟進行中申請更正請求項，智慧局亦准予更正，然舉發人認為該更正已構成實質變更申請專利範圍而應不予更正，故提出舉發申請(N01案)。 3. 由於倘若本案不進行更正則無法迴避先前技術，將導致專利不具進步性，因此爭論更正的適法性即相當重要。也因為如此，舉發人始於 N01案中選擇集中攻勢於「更正應否准許」乙點的策略模式，而不同時爭執系爭專利之進步性欠缺的問題，此種策略模式實屬罕見。 4. 本案爭執的重點在於系爭專利權之原請求項係記載為「A 及／或 B 具有分子量為.....」，更正為「A 具有分子量為.....」，舉發人主張該更正顯然構成擴大原申請專利範圍。本所精準的指出舉發人邏輯上的錯誤，並詳列說明書之各處記載，以證明系爭專利刪除「及／或 B」並未減損發明整體之目的，且仍然可獲致系爭專利原本所能達成之功效。智慧局最終仍審定舉發不成立。N01案於訴願階段及智慧法院、最高行政法院審理階段皆由本所客戶取得勝訴，全案確定。 5. 由於舉發人於 N01案敗訴，故舉發人繼而又提起新舉發案（N02案），於智慧局審理時並進行一次的面詢審理。舉發人於 N02案主張的無效理由包含系爭專利違反明確性要件、據以實施要件、新穎性要件、進步性要件。因此，N02案攻防的重點相當多面，包含選擇發明的新穎性要件、進步性、以及化學專利的申請專利範圍解釋問題等。智慧局最終仍審定舉發不成立。N02案於訴願階段及智慧法院、最高行政法院審理階段皆由本所客戶取得勝訴，全案確定。 6. 舉發人繼而又提起新舉發案（N03案），舉發人於 N03案主張的無效理由限縮於進步性要件。本所將攻防的重點聚焦於選擇發明的議題，並援引 N02案中智慧法院及最高行政法院對客戶有利的見解，使智慧局於 9 個月內即做出舉發不成立的審定，再度地為本所客戶確保其權利。 <ol style="list-style-type: none"> 1. The patent challenged is an invention patent on the method of fabricating cellulose fiber and is the patent-at-issue in a patent infringement litigation pending decision by the IP&C Court. The challenger (and the respondent in that litigation) twice sought for invalidation of the patent (Case 01 and Case 2). This case is also selected by the Taiwan IPO as an example work of the year. 2. During the litigation, the patentee sought to amend the patent and the amendment was granted as proposed. The challenger alleging

that the amendment proposed by the patentee should've been denied for it constitutes a substantive change of the scope of the patent. (Case 01)

3. Without the amendment sought for by patentee and granted by the Taiwan IPO, the patent in dispute will inevitably run into the scope of relevant prior arts to be determined lack of inventive step. Accordingly, the acceptability of the amendment sought for by the patentee is a core issue. As such, the challenger aimed at Taiwan IPO's grant of the amendment as the target of attack in the invalidation action instead of questioning the inventive step of the patent. This strategy put to practice by the challenger is, frankly speaking, quite uncommon.

4. The key issue in dispute is the reading of the claim in question: the original text reads "...A and/or B has a molecular mass of..." and the post-amendment text reads "...A has a molecular mass of" The challenger alleged asserting that the amendment obviously broadened the original scope of the claim. In response, we nailed the logical fallacies in the challenger's allegations and detailed a list of the relevant text of the specification of the patent to prove that the proposed removal of "...and/or B..." from the specification does not in any way undermine the purpose of the invention as a whole and nor does it compromise the original intended performance and effects of the patent. The defence we presented won Taiwan IPO's dismissal of the challenger's invalidation request for our client. The challenger brought an appeal to the SAC without success. Our client's patent having weathered through the proceeding of the challenger's invalidation attempt in the Taiwan IPO, administration action in the IP Court and appeal to the SAC in Case 1 stands still with

5. With its initial invalidation attempt failed (Case 01), the challenger filed a second invalidation request (Case 02), which request is pending Taiwan IPO's decision with one interview conducted as of today. In the Case 2 invalidation action, the challenger has attacked clarity, workability of embodiment, non-obviousness and inventive step of our client's patent. That is, the means of attack and defence to present in Case 2 involves the novelty issue, inventive step issue, and the construction of the scope of patent claimed on a chemical invention. Ultimately, the Taiwan IPO rendered a decision dismissing the Case 02 invalidation action. In Case 02, our client prevailed at every stage — before the Appeal Board, the IP Court, and the SAC — and the decision has become final and binding.

6. Thereafter, the challenger filed a new invalidation action (Case 03) where lack of inventive step is the only grounds asserted against the patent challenged. We focused our defense strategy on the issue of "selection invention," citing the reasoning by the IP Court and the Supreme Administrative Court in Case 02 favorable to our client. As a result, the Case 03 invalidation request was dismissed within just nine months and our client's patent is once again successfully defended.

TIPL Outstanding case-5 2025 Patent Infringement Litigation

<p>Name and brief description of case/portfolio:</p>	<p>一台灣行動支付公司(專利權人)對本所客戶(台灣公司),在智慧財產及商業法院提起專利權侵害民事訴訟,主張客戶製造、使用及推行之「商店端收款 APP 及手機付款 APP」(下稱系爭產品 A)與「為提供上開服務所使用之伺服器(下稱系爭產品 C)所執行之行動支付方法 mobile payment method 侵權,並請求客戶停止侵害及請求新台幣 600 萬元之損害賠償。在訴訟中,客戶爭執系爭產品 A+C 並未侵害系爭專利,並提出先前技術主張系爭專利欠缺進步性而有應撤銷之事由。</p> <p>智慧財產及商業法院一審法院為客戶勝訴之判決,並駁回專利權人之請求。判決理由如下:</p> <ol style="list-style-type: none">1. 系爭專利之主要技術特徵在於: 當「支付機構伺服器」判斷「接收」自該「行動支付設備」之(該)支付清單與「接收」自該「交易電腦裝置」之該支付清單相同時,該支付清單使「行動支付設備」基於至少該支付清單產生一支付請求。2. 而系爭產品 A+C 所執行之行動支付方法,是「支付機構伺服器」判斷其「傳送」給「交易電腦裝置」之支付清單,與「接收」自「行動支付設備」之支付清單是否相同。二者技術手段明顯不同。3. 二者判斷之對象、功能、結果實質上完全不同,不適用均等論:<ol style="list-style-type: none">1) 系爭產品 A+C,其「支付機構伺服器」藉由安全碼(Secure code)及驗證碼(MAC),判斷其「傳送」給「交易電腦裝置」之支付清單,與「接收」自「行動支付設備」之支付清單是否相同;而系爭專利中,「支付機構伺服器」是判斷其分別「接收」自「交易電腦裝置」及「行動支付設備」之支付清單是否相同。2) 系爭專利中,若「支付機構伺服器」判斷其分別「接收」之支付清單(金額)不同時,不會產生一支付請求,但系爭產品 A+C 中,若「交易電腦裝置」將支付清單「傳送」予「行動支付設備」時並未發生錯誤,縱使支付清單(金額)和其「傳送」給支付機構伺服器者不同,「支付機構伺服器」仍然會判斷安全碼及驗證碼無誤,而依據支付清單產生一支付請求。 <p>嗣專利權人上訴。智慧財產及商業法院二審駁回專利權人上訴。法院認為:</p> <ol style="list-style-type: none">1. 系爭專利有應撤銷之事由: 乙證 2(CN103778531A)或乙證 10(10. WO2014082164)可以證明系爭專利不具進步性。2. 侵權比對部分: 系爭產品之「銀行伺服器」接收 QR Code 後,對該 QR Code 進行解碼取得「安全碼」,並與商家當初註冊就記錄在銀行伺服器中的商家註冊資料(安全碼)作驗證,前述內容不符合系爭專利請求項 1「當該支付機構伺服器判斷接收自該行動支付設備之該支付清單與接收自該交易電腦裝置之該支付清單相同時,該支付清單使該行動支付設備基於至少該支付清單產生一支付請求,該支付請求用於使該支付機構伺服器依據該支付請求所包括之該支付清單處理該支付」技術特徵之文義讀取。
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接著，專利權人向最高法院提起上訴。最高法院廢棄原判決發回智慧財產及商業法院更審。最高法院認為：

- 1) 法院已知之特殊專業知識，應予當事人有辯論之機會，始得採為裁判之基礎。
- 2) 查原審認定乙證 2 之專利案，在步驟 6 時由方式 d 改為方式 a，係所屬技術領域中具有通常知識者就同一引證文件中能輕易執行者；及乙證 10 之技術中，①將產生條碼之電腦由 POS 終端之電腦變更為支付機構伺服器；②在支付機構伺服器檢查支付清單是否相同步驟之「同時」或「之後」接收行動裝置傳送之支付請求的接收時間點之選擇，均係所屬技術領域中具有通常知識者，依申請時之通常知識能簡單變更者，係屬該領域具有通常知識者均能輕易執行或簡單變更者。惟原審就上開專業知識，未依上揭規定意旨適當揭露及令當事人為辯論，遽為不利上訴人之論斷，其所踐行之訴訟程序，已難謂合。

之後智慧財產及商業法院二審更審時，就最高法院發回意旨進行調查。最後仍然駁回專利權人之上訴。法院認為：

1. 乙證 2 方式 d 所傳遞及驗證之標的係「交易訂單號」與系爭專利之「支付清單」，兩者所進行之交易驗證或商業方法步驟有所不同，所屬技術領域中具有通常知識者，為了在驗證流程中兼顧伺服器負擔及交易效率之設計需求，在乙證 2 已揭露藉由設備相互鄰近來進行掃描，且方式 a、d 分別已揭露以「消費訂單」、「交易訂單號」作為傳遞及驗證標的之前提下，能夠輕易地想到利用先前技術中人類所進行之交易活動或商業方法，將乙證 2 方式 d 所揭露由銀行伺服器產生對應且唯一之交易訂單號再據以生成二維碼之技術內容，修飾成由銀行伺服器依據消費訂單產生二維碼，亦即將部分流程從傳遞及驗證「交易訂單號」簡單變更成「消費清單」，而輕易完成系爭專利請求項 1 之技術特徵。
2. 乙證 10 雖然沒有揭露「該支付清單使該支付機構伺服器當接收到該支付清單時依據該支付清單產生一條碼，及傳送該條碼給該交易電腦裝置」之技術特徵，但條碼的轉換或生成，於系爭專利申請前早已普遍使用於 POS 終端，可知所屬技術領域中具通常知識者，為了交易流程之設計需求，能夠輕易地想到將生成條碼之主體，從由 POS 終端簡單變更為支付機構伺服器。
3. 此外，乙證 10 雖然沒有揭露「且當該支付機構伺服器判斷接收自該行動支付設備之該支付清單與接收自該交易電腦裝置之該支付清單相同時，該支付清單使該行動支付設備基於至少該支付清單產生一支付請求，該支付請求用於使該支付機構伺服器依據該支付請求所包括之該支付清單處理該支付」技術特徵，但乙證 10 係藉由支付處理伺服器比對交易標識符一致，即表示交易標識符唯一對應之交易明細亦為一致，進而執行後續支付處理，且乙證 10 係先產生支付請求再比對支付資訊，而後進行支付處理，與系爭專利先驗證支付清單再產生支付請求，而後進行支付處理，兩者差異僅在於驗證交易資訊與接收支付請求之時點不同，所屬技術領域中具通常知識者，為了在驗證流程中兼顧伺服器負擔及交易效率之設計需求，能夠輕易地想到利用先收取並驗證證明文件待驗證

無誤後再收取並審核匯款條，或同時收取及驗證證明文件及匯款條之一般商業方法或交易活動，將乙證 10 於驗證交易資訊同時接收支付請求，簡單變更成驗證交易資訊一致後再接收支付請求。

A Taiwanese mobile payment service provider and holder of the patent in issue sued a Taiwanese company (respondent and Client of TiPLO) alleging patent infringement.

According to the complaint, patentee has alleged the store POS app and the mobile payment app which respondent has fabricated, used and promoted (collectively called “product A” in the complaint) and the mobile payment method executed on the server (called “product C” in the complaint) respondent has used to provide the above payment and receipt services infringe upon its patent.

Patentee demanded that respondent be enjoined from the alleged infringing acts and activities and pay TWD6 million in damages.

During the proceeding, respondent maintained the product A + product C combination is non-infringing and sought for invalidation of the patent challenging its inventive step.

The IP&C Court of the first instance decided in favor of respondent and dismissed patentee’s demands in full. The IP&C Court’s reasoning of its decision:

1. Main technical feature of the patent in issue: Once the payment institution server determines the payment information *received* from the mobile payment electronic device and that *received* from the transaction electronic device are coherent, the mobile payment equipment will generate a payment request based on, among others, that payment information.

2. In contrast, the mobile payment method executed on the product A + product C combination is characterized by the payment institution server being operated to determine whether or not the payment information it *transmits* to the transaction electronic device coheres with the payment information it *receives* from the mobile payment electronic device. The technical means of the mobile payment method in dispute is obviously different from that of the main technical feature of the patent asserted.

3. Doctrine of equivalent accordingly does not apply because the object of the determination to make, the function designed to perform and the result of the function performed of the mobile payment method in dispute are substantially, totally different from those of the patent in issue:

1) The mobile payment on the product A + product C combination is processed by the payment institution server determining, based on the secure code and MAC, whether or not the payment information *it transmits* to the transaction electronic device coheres with that it receives from the mobile payment electronic device. The patent

asserted, however, processes by the payment institution server determining whether or not the payment information *it receives* from the transaction electronic device coheres with that it receives from the payment electronic device.

2) By operation of the patent asserted, no payment request will be generated if the payment institution server determines the two pieces of payment information received (i.e. dollar amount) do not cohere with each other.

By operation of the product A + product C combination, however, as long as there is zero error in transmitting the payment information from the transaction electronic device to the mobile payment device, the payment institution server will generate the payment request according to the payment information received once the security code and MAC both are verified regardless of the discrepancy (if any) in the payment information (dollar amount) received.

Patentee took an appeal to the IP&C Court of the second instance but in vain. The IP&C Court's reasoning of its decision:

1. The patent in issue should be invalidated. Respondent Exhibit 2 (CN103778531A) and Respondent Exhibit 10 (WO2014082164) each serves as proof of the patent lacking inventive step.

2. Analytical comparison for infringement: The bank server (i.e. the product in dispute) in operation will decode the QR Code received to obtain the secure code and verify it with the store's secure code registered on the bank server.

The abovesaid process does not literally reads on the technical feature of claim 1 of the subject patent which is as follows: Once the payment institution server determines the payment information received from the mobile payment electronic device and that received from the transaction electronic device are coherent, the mobile payment equipment will generate a payment request based on, among others, that payment information. The payment request will activate the payment institution server to process the payment according to payment information included in the payment request.

Patentee took an appeal to the Supreme Court (SC). The SC vacated the decision rendered by the lower court and remanded the case to the lower court for re-decision. The SC's reasoning of its decision:

1. The Court shall accord the party the opportunity to be heard where the special professional knowledge concerned is known to the Court or the Court cannot take the allegation presented by the other party to decide on the case.

2. With respect to the patent shown in Respondent Exhibit 2, the lower court holds that changing method d to method a in Step 6 is a process that can be easily accomplished by a PHOSITA.

With respect to the technology described in Respondent Exhibit 10, the lower court finds that 1) the POS terminal to generate the barcode is

replaced by the payment institution server; 2) selecting by the payment institution server of, *at the same time when* or *after* it determines if the two pieces of payment information received are coherent, the time point to receive the payment request transmitted from the mobile device is a process that can be easily carried out or changed by a PHOSITA.

The lower court, however, failed to accord appellant the opportunity to present its argument regarding the above but recklessly made findings adverse to appellant. By doing so, the lower court has failed to carry out the proceeding according to the procedure.

The IP&C Court after taking a look at the case remanded decided still that patentee's appeal should be dismissed. The IP&C Court's reasoning of said re-decision:

1. The object to transmit and verify in method d as described in Respondent Exhibit 2 is the purchase order number while the object described in the patent in issue is the payment information. Obviously, their steps of transaction verification or commercial method are not the same.

In consideration of the server's workload and meeting the transaction efficiency needs, by reference to the scanning performed by the adjacent devices and the purchase order and the transaction purchase order number designated as the objects to transmit and verify as disclosed in method a and method d as disclosed in Respondent Exhibit 2, a PHOSITA may easily come up with the idea of making use of the transaction activity or business method described in prior arts to modify the technical feature of a the bank server generating a barcode according to the transaction purchase order number it generated (as disclosed in method d of the respondent's Exhibit 2) to the bank server generating a barcode based on the consumer's purchase order. In short, a PHOSITA may easily accomplish the technical feature of claim 1 of the patent in issue simply by replacing the transaction purchase order number with the purchase order for the object to transmit and verify.

2. Respondent Exhibit 10 has disclosed nothing about the technical feature that "...the payment information will activate the payment institution server to generate a barcode based on the payment information upon receipt of the same payment information and transmit the barcode generate to the transaction electronic device..."

However, the conversion or generation of the barcode had been commonly adopted and used at POS terminals before the patent application for the patent in issue was filed. Clearly, a PHOSITA may easily come up with the idea of simply replacing the POS terminal with the payment institution server to operate as the principal device to generate barcodes to meet the needs of the transaction process designed.

	<p>3. Moreover, Respondent Exhibit 10 has disclosed nothing about the technical feature that “Once the payment institution server determines the payment information received from the mobile payment electronic device and that received from the transaction electronic device are coherent, the mobile payment device will generate a payment request based on, among others, that payment information. The payment request will activate the payment institution server to process the payment according to payment information included in the payment request.”</p> <p>However, the processing of payments described in Respondent Exhibit 10 after the payment processing server determines the transaction identifier is consistent, which consistency means the transaction details are verified as coherent. Further, in operation, the processing as described in Respondent Exhibit 10 has the payment request generated first before verifying coherence of the payment information received. In contrast, the patent in issue has the payment information verified coherent before generating the payment request. What differentiates the processing described in Respondent Exhibit 10 and the patent in issue is the time point when the two pieces of payment information received are verified for coherence and when the payment request is received. In consideration of the server’s workload and meeting the intended transaction efficiency needs, a PHOSITA contemplating optimal processing of the verification task, may come up with the idea to opting for either</p> <p>a) receiving/verifying the evidencing documents first and then receive/examine/approve the request for remittance; or b) the common course of business or transaction, i.e. receiving/verifying the evidencing document and the request for remittance at the same time</p> <p>thereby easily changing the processing by verifying the transaction information and receiving the payment request at the same time as described in Respondent Exhibit 10 to a processing where the transaction information will be verified coherent before the payment request is generated.</p>
IP advisers from TIPLO involved:	H. G. Chen, Attorney-at-Law / Certified Patent Attorney Y. S. Yang, Attorney-at-Law / Certified Patent Agent
Other IP firms involved:	N/A.
Date(s)	<p>Timeline: --</p> <p>2019.6 : 專利權提起訴訟</p> <p>2019年11月: 一審第1次開庭</p> <p>2019年12月: 一審辯論終結</p> <p>2020年2月: 一審宣判</p> <p>2020.3 專利權人提起上訴</p> <p>2020.9 二審第1次開庭</p> <p>2021.2 二審辯論終結</p> <p>2021.3 二審宣判。</p>

	<p>2021.4 專利權人提起上訴 2022.8 最高法院廢棄原二審判決 2023.1 二審更一審第 1 次開庭 2024.10 二審更一審辯論終結 2024.11 二審更一審宣判 2024.12 專利權人提起上訴 2025.6 最高法院駁回上訴。</p> <p>Timeline: -- Jun. 2019: Patentee initiated civil action. Nov. 2019: First court hearing held. Dec. 2019: Oral argument session held and proceedings in the court of first instance closed. Feb. 2020: IP&C Court rendered decision. Mar. 2020: Patentee appealed.</p> <p>Sep. 2020: First hearing held in the court of second instance. Feb. 2021: Oral argument session held and proceedings in the court of second instance closed. Mar. 2021: IP&C Court of the second instance handed down decision. Apr. 2021: Patentee took an appeal to the Supreme Court (SC).</p> <p>Aug. 2022: SC vacated the 2nd-instance court decision and case remanded for re-decision. Jan. 2023: First hearing held on the remanded case. Oct. 2024: Oral argument session held and proceedings on the remanded case closed. Nov. 2024: IP&C Court rendered re-decision on the case. Dec. 2024: Patentee took an appeal.</p> <p>Jun. 2025: SC dismissed patentee's appeal.</p>
<p>Why was it important?</p>	<p>本件屬於備受矚目之 Fin-tech 領域之專利權侵害案件，可被認為是因台灣前幾年 fintech 相關專利大量申請之結果所引爆，也可反映將來金融專利權侵害訴訟或將成為未來台灣專利訴訟之主要戰場。</p> <p>本件客戶為公股銀行，負責主導及推行 QR Code 行動支付。在本所強力及完整之答辯下，成功地協助客戶免除高額之賠償金，也間接維護了客戶之市場競爭地位。</p> <p>This patent dispute in the field of fintech has drawn wide attention from the trade. It may be considered the outcome as a matter of course of the considerable amount of patent applications filed on fintech related technologies over the past few years. This litigation seems to foreshadow fintech-related patents will play a significant role in patent infringement litigations in Taiwan.</p> <p>Respondent in the dispute (and client of TiPLO) is a state-owned bank in Taiwan leading the planning, development and promotion of QR code mobile payment. We successfully defended the mobile payment method developed by respondent during the proceedings with only two hearings held before the IP Court delivered its decision. Patentee's</p>

	demand for damages (the claimed amount of which is fairly high) is denied and respondent's market standing in the trade upheld.
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TIPLO Outstanding case-6 2024 Patent Infringement Litigation

<p>Name and brief description of case/portfolio:</p>	<p>本所客戶被控侵害相對方就電腦操作台與周邊裝置訊號切換器之「發明專利」及自動切換器之「新型專利」，而遭法院實施假扣押、假處分，嗣經相對方提起專利權侵害訴訟，最後認定本所客戶之產品並無侵權，相對方敗訴確定。</p> <p>本所客戶依據當初相對方所聲請之假扣押、假處分情節，主張其聲請該假扣押、假處分時，具有故意過失，侵害本所客戶之權利而提起損害賠償訴訟，本所客戶經第一、二審敗訴後，本所為本所客戶上訴三審，獲得最高法院廢棄二審判決，發回二審。</p> <p>Our client was sued by the adverse party for infringing its invention patent relating to the signal switch for console and peripheral devices, as well as its utility model patent for the automatic switch, and was consequently subject to a provisional attachment and preliminary injunction granted by the court. After that, the adverse party filed a patent infringement lawsuit against our client, and the lawsuit ultimately affirmed our client's non-infringement and the adverse party's defeat became final.</p> <p>Our client filed a lawsuit to claim damages against the adverse party on the ground that the adverse party had acted with intent or by negligence in seeking provisional attachment and preliminary injunction against our client, thereby infringing our client's rights. After our client's defeat in the first- and second-instance proceedings, our firm represented our client to appeal this case to the Supreme Court, which resulted in the Supreme Court vacating the second-instance judgment and remanding this case back to the second-instance proceedings.</p>
<p>IP advisers from your firm involved:</p>	<p>陳和貴律師/專利師 楊益昇 律師 蘇芳儀 律師 H. G. Chen, Attorney-at-Law / Patent Attorney Y. S. Yang, Attorney-at-Law Bonnie Su, Attorney-at-Law</p>
<p>Other IP firms involved:</p>	<p>N/A</p>
<p>Date(s)</p>	<p>2022.8.11:二審判決本所客戶敗訴(他所承辦) 2022.10: 本所受委任 2022.12: 提呈第三審上訴理由狀 2023.03: 再次提呈上訴理由狀 2024.11: 最高法院撤銷原判決，發回智慧財產及商業法院</p> <p>Timeline: 2022.8.11: Second-instance judgment rendered against our client (Handled by another law firm). 2022.10: Our firm was retained by the client. 2022.12: A written statement for reasons of appeal (I) was submitted</p>

	<p>to the Supreme Court. 2023.03: A written statement for reasons of appeal (II) was further submitted. 2024.11: The Supreme Court vacated the second-instance judgment and remanded the case back to the IPC Court.</p>
<p>Why was it important?</p>	<p>1. 本案專利權侵害訴訟，經判決專利權人敗訴確定，關於專利權人當初所為之專利權侵害保全處分，包含假扣押、假處分之發動，是否構成侵權行為，應以民法第 184 條第 1 項為認定依據。關於故意或過失，侵害他人權利之節，所謂故意，指對於構成侵權行為之事實，明知且有意使其發生；或預見其發生而其發生並不違反其本意。而所謂過失，係指抽象輕過失即欠缺善良管理人之注意義務而言。債權人聲請假扣押所保全之請求，如不存在，其聲請假扣押又出於故意過失，致債務人受損，即應負侵權行為損害賠償責任。</p> <p>2. 本案最高法院審酌被控侵害專利權之產品，於肉眼觀察或實際測試後，均足證未侵害專利權，故發回之理由以：專利權人當初發動假扣押、假處分，主張新型專利、發明專利受侵害時，未拆解被控侵權產品為實際測試，即逕自發動，故其所聲請之假扣押、假處分，是否有故意、過失致被實施保全處分者(本所客戶)受損害，應再予審酌。</p> <p>1. In this patent infringement lawsuit, the court decided against the patentee (the adverse party) with a final and binding judgment. As to the issue whether the patentee's provisional remedies sought for the alleged patent infringement, including the requests for provisional attachment and preliminary injunction, constituted a tortious act, Article 184, Paragraph 1 of the Civil Code should apply as a basis for determination. In addition, as to the infringement upon another's rights either with intent or by negligence, infringement with intent refers to the situation where the infringer knows about the fact that constitutes a tortious act, and he/she either intends for its occurrence or foresees its occurrence and the occurrence is not against his/her intention. Infringement by negligence, on the other hand, refers to "ordinary negligence" (<i>culpa levis in abstracto</i>), namely, the lack of care of a good administrator. Accordingly, if a creditor's claim preserved by the request for provisional attachment does not exist, and the creditor's such request was made with intent or by negligence and causes damage to a debtor, the creditor shall bear torts liability for damages.</p> <p>2. The Supreme Court, upon examination by visual inspection and tests, found that the accused product did not constitute patent infringement, and thus, remanded this case on the ground that when the patentee requested for provisional attachment and preliminary injunction and asserted the alleged infringement upon its utility model patent and invention patent, the patentee failed to disassemble the accused product for conducting any actual tests and instead directly requested for the provisional measures. Therefore, the issue whether the patentee acted with intent or by negligence in requesting for the said provisional attachment and preliminary injunction and thus caused damage to the party subject to such provisional measures (namely, our client) should be further examined and decided.</p>

TIPL Outstanding case-7 2025 Trademark Infringement Litigation

<p>Name and brief description of case/portfolio:</p>	<p>原告（本所客戶）發現被告銷售標示原告商標服飾及其他品牌服飾商品，卻未經原告同意或授權，擅自在所經營之百貨公司官網、百貨專櫃內外及專櫃玻璃櫥窗，使用原告之著名商標圖樣。經原告發函警告被告後，被告卻函覆表示其使用原告之商標構成合理使用等語，原告遂於2022.8.17 向智商法院提起民事訴訟，依商標法及公平法請求排除侵害及損害賠償 200 萬元。</p> <p>The plaintiff of this case (TIPL's client) discovered that the defendants (an outlet mall and the operator of a sales counter at the outlet mall) sold the apparel bearing the plaintiff's well-known trademark (hereinafter the "Mark") at the sales counter of the outlet mall but used the Mark, without authorization, on the official website of the outlet mall, inside and outside the sales counter as well as its display window at the outlet mall. For such unauthorized use of the Mark on the official website and the sales counter, the plaintiff issued a cease and desist letter to the defendants and the defendants made a reply letter to the plaintiff arguing that their use of the Mark constituted fair use. Therefore, on August 17, 2022, the plaintiff initiated a civil action with the IPC Court, seeking infringement removal and claiming damages in an amount of TWD2 million against the defendants pursuant to the Trademark Act and Fair Trade Act.</p>
<p>IP advisers from your firm involved:</p>	<p>陳和貴 律師 吳婷婷 律師 劉冠均 律師 H. G. Chen, Attorney-at-Law T. T. Wu, Attorney-at-Law Kuan-Chun Liu, Attorney-at-Law</p>
<p>Other IP firms involved:</p>	<p>N/A</p>
<p>Date(s)</p>	<p>第一審智商法院民事判決（案號：111 民商訴字第 57 號判決，裁判日期：2025.4.30） 2025.4.30: First-instance civil judgment rendered by the IPC Court (under docket no. (111) Min-Shang-Su-Zi No. 57)</p>
<p>Why was it important?</p>	<p>被告銷售平行輸入商品，但未其經原告之同意或授權，為宣傳目的，擅自於所經營之百貨官網及專櫃內外及其外牆玻璃櫥窗內，使用原告商標圖樣之行為，原告主張構成商標侵害及違反公平交易法是否成立？</p> <p>法院判決理由要旨：</p> <ul style="list-style-type: none"> ● 被告（百貨專櫃）於其專櫃、櫥窗及官網上使用原告商標圖樣之行為，並非作為商品有關之說明，構成商標之使用。 ● 被告銷售平行輸入商品，基於「商標權利耗盡」原則，原告不得向被告主張商標權，且被告使用原告商標販賣商品之行為，並不會減弱原告商標之識別性，故無構成視為侵害原告之著名商標權。但法官認定被告所為，顯然以積極行為使人誤認係原告或其代理商銷售之商品，違反公平交易法第 25 條規定。 ● 法院判決被告（百貨專櫃）不得使用相同或近似於原告商標於百貨專櫃等實體通路或網路商店、任何商業文書、廣告、數位影音、電子媒

體、網路或其他媒介物；及被告（百貨專櫃及專櫃負責人）應連帶給付原告新台幣 48 萬元及依法計算之利息等。

法院判決認定被告未經原告之同意或授權，擅自使用原告商標之行為構成違反公平交易法，並准予原告之請求被告不得使用原告之商標在百貨官網或專櫃櫥窗等及部分損害賠償，但法院判決理由中認為本件有「商標權利耗盡」原則之適用，故被告之行為無構成商標侵害，應屬違誤。蓋「商標權利耗盡」原則之適用，應限於平行輸入之「商品本體」，至於銷售平行輸入之商品本體以外之利用原告商標圖樣之宣傳廣告行為，仍應取得原告之同意或授權，此業為多數法院判決所採。基於上述，原告不服原判決，已提起上訴，目前因原、被告均已提起上訴，本件現由上訴法院審理中。

The defendants sold parallel-imported goods but, without the plaintiff's consent or authorization, used the Mark for promotional purpose on the outlet mall's official website, inside and outside the sale counter at the outlet mall, as well as on the display window. Whether the plaintiff's allegation that such acts constituted trademark infringement and Fair Trade Act violation should be sustained.

Gist of the IPC Court judgment

- Use of the Mark by one of the defendants (operator of the sales counter at the outlet mall) inside and around the sales counter, on the display window, and the outlet mall's official website constituted trademark use, rather than product description.
- Pursuant to the trademark exhaustion doctrine, the plaintiff had no basis to assert trademark right against the defendant with respect to its sale of parallel-imported goods. In addition, the defendant's use of the Mark for selling products did not dilute the distinctiveness of the Mark, and thus did not constitute the conduct that should be deemed as infringing on the plaintiff's well-known trademark. However, the judge determined that the defendant's conduct apparently constituted an active act causing the public to mistakenly believe that the products it sold were sold by the plaintiff or the plaintiff's authorized distributor, thereby violating Article 25 of the Fair Trade Act.
- The IPC Court ordered that the defendant (operator of the sales counter) shall not use any mark identical or similar to the Mark on physical sales channels, such as, sales counters at department stores) or online stores, in any commercial documents, advertisements, digital or audio-visual materials, on electronic media, on the Internet or any other media, and also that the defendant (the sales counter and responsible person thereof) shall jointly and severally pay to the plaintiff TWD480,000 and the interest calculated according to the law.

The IPC Court sustained the defendants' violation of the Fair Trade Act by the conduct of using the Mark without the plaintiff's consent or authorization, and also granted the plaintiff's requests for prohibition against the defendants' use of the Mark on the outlet mall's official website or the sales counter's display window and for part of the damages claimed. However, the IPC Court erred in the reasoning that the "trademark exhaustion doctrine" should apply in this case, and

	<p>therefore did not sustain the trademark infringement alleged against the defendant. The application of the “trademark exhaustion doctrine” should be limited to the “products <i>per se</i>” that are parallel imported, while the use of the plaintiff’s trademark for promotional purpose unrelated to the products themselves should still be subject to the plaintiff’s consent or authorization, which has been adopted in the majority of court judgments. The plaintiff was dissatisfied with the IPC Court judgment and has appealed this case to the higher court. This case is currently pending at the appellate court upon both sides’ appeals.</p>
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TIPL Outstanding case-8 2025 Trademark Infringement Litigation

<p>Name and brief description of case/portfolio:</p>	<p>被告於 112 年 4 月 29 日起在其臉書粉絲專頁使用原告（本所客戶）之商標（系爭商標）並宣稱「和瑞士精品 160 年的原告合作」舉辦團購活動，侵害原告商標權、商譽以及違反公平交易法。案經智慧財產及商業法院一審判決（本所客戶勝訴），全案上訴二審中。</p> <p>Using without due authorization the registered mark owned by Company A, a world-renowned wristwatch maker (and client of TIPL), an individual (herein named “S”) announced via his Facebook page on 29 April 2023 the launch of a group-buy campaign for purchasing Company A’s wristwatch products falsely representing it to be one put together with the cooperation of Company A, a Swiss luxury wristwatch maker with a history of over 160 years.</p> <p>By doing so, S infringed upon Company A’s trademark right, resulted harm to Company A’s goodwill and engaged in unfair trade practice against fair trading order. Company A filed action against S under the Trademark Act and Fair Trade Act. Company A prevailed in conclusion of the proceedings in the IP&C Court of the first instance. Company A and S both took an appeal and the case is pending decision by the court of second instance.</p>
<p>IP advisers from your firm involved:</p>	<p>陳和貴 律師/專利師 吳婷婷 律師/專利師 劉冠均 律師 H. G. CHEN, Attorney-at-Law / Certified Patent Attorney Ting Ting WU, Attorney-at-Law / Certified Patent Attorney Kuan-Chun LIU, Attorney-at-Law</p>
<p>Other IP firms involved:</p>	<p>N/A.</p>
<p>Date(s)</p>	<p>2023.05.16 原告寄發律師函請被告停止使用系爭商標及刪除合作之訊息。 2023.05.23 被告寄發律師函辯稱雙方已有合作協議，並無侵害原告權益。 2023.06.28 向智慧財產及商業法院（第一審）提起民事訴訟。 2024.03.25（第一審）第一次準備程序 2024.06.17（第一審）第二次準備程序 2024.07.22（第一審）第三次準備程序 2024.09.16（第一審）第四次準備程序 2024.11.05（第一審）言詞辯論程序 2025.02.07（第一審）法院判決宣判</p>

	<p>2025.03.07 原告提起第二審上訴 2025.03.12 被告提起第二審上訴</p> <p>Timeline: --</p> <p>2023.05.16: Company A issued a cease and desist letter to S requesting for him to stop the unauthorized use of the subject mark and remove the above false advertising claim from his Facebook page. 2023.05.23: S replied through his attorney alleging he and Company A had made a cooperation deal and he had resulted no harm to Company A's rights and interests. 2023.06.28: Company A filed civil complaint against S with the IP&C Court (first instance). 2024.03.25: First hearing held for preparatory proceeding. 2024.06.17: A second hearing held for preparatory proceeding. 2024.07.22: A third hearing held for preparatory proceeding. 2024.09.16: A fourth hearing held for preparatory proceeding. 2024.11.05: A fifth and the last hearing held in the court of first instance for oral argument. 2025.02.07: Decision rendered by the court of first instance announced. 2025.03.07: Company A took an appeal. 2025.03.12: S took an appeal.</p>
<p>Why was it important?</p>	<p>【智慧財產及商業法院 112 年度民商訴字第 49 號民事判決(第一審判決)要旨】:</p> <ol style="list-style-type: none"> 1. 被告未與原告達成合作團購銷售手錶協議 原告人員並無具體承諾被告在網路上可使用系爭商標及同意被告揪團採購原告之手錶，且沒有任何合作之具體內容，例如：被告可否使用系爭商標、商品如有瑕疵如何處理、被告之分潤等細節。 2. 被告侵害系爭商標 被告使用相同於原告之系爭商標，並刊登團購合作廣告，同時連結重製知名人物照片加以合成，宣稱可取得 85 折優惠等語，自會使相關消費者產生混淆，而被告自始未經原告同意可在網頁廣告上使用系爭商標，故構成商標法第 68 條第 1 款規定之侵害商標權行為；且上述刊登廣告行為使系爭商標在相關消費者心中不能留下單一聯想或獨特性印象，而有淡化、減弱系爭商標識別性之虞，自亦構成商標法第 70 第 1 款規定之視為侵害商標權行為。 3. 被告行為違反公平交易法 被告未與原告達成合作團購協議，然在網路上刊登上述廣告，使不知情消費者誤認被告與原告確實有團購合作或授權關係，或誤認向被告購買可以有 85 折優惠價格，違反公平交易法第 21 條第 1 項規定；又被告使用知名人物及自己照片，致相關消費者誤認被告為原告品牌代言人，由此足認被告藉此使消費者誤認此團購活動與原告有關聯，是被告攀附系爭商標，違反公平交易法第 25 條規定。 4. 原告得請求排除被告侵害系爭商標 原告依商標法第 69 條第 1、2 項規定請求被告不得使用相同或近似於原

告系爭商標，將使用含有系爭商標之標識、廣告及其他行銷物品除去並予以銷毀，為有理由。

5. 被告應賠償原告所受損害

本件被告侵害系爭商標損害額以原告提出按商標權利金比例 10%計算。是以被告侵害系爭商標應賠償原告損害額為 308,715 元 (3,087,150×10%=308,715)。又被告之臉書頁有 16 萬追蹤人數，其在市場上具有一定影響力，其未經原告同意或授權使用原告系爭商標，屬惡意侵害，使原告受公平競爭利益之損失，應負擔懲罰性損害賠償，依公平交易法第 31 條第 1 項規定，酌定三倍懲罰性損害賠償即 926,145 元 (308,715×3= 926,145)，原告在此範圍內請求被告給付 50 萬元，為有理由。

6. 被告未侵害原告商譽權

被告並未在網路上宣傳或貶低手錶品牌價值，其雖未取得與原告團購合作協議，亦未告知參加團購成員此訊息，或違反消費者保護法中關於真實資訊提供之規定，然尚不能認構成侵害原告之商譽權。

Digest of the decision handed down by the IP&C Court of the first instance:

1. *There exists no arrangement of any kind agreed-upon by and between Company A and S as S has alleged about the group-buy campaign in question.*

Company A has consented to nothing to allow S to use the subject mark online. Nor has Company A approved of the group-buy campaign in question for purchasing its wristwatch product. S has presented no evidence to establish the cooperation alleged, such as the terms of Company A's grant for him to use the subject mark, how defect (if any) in the wristwatch purchased should be dealt with and sharing of profit, etc.

2. *S infringed upon Company A's trademark right.*

S used the subject mark exactly as it is registered. He used it to openly announce and advertise the group-buy campaign in question with a hyperlink given to the pictures of some celebrity he reproduced and an offer of a 15% discount on purchase. Relevant consumers certainly will be confused by said advertising. The fact is Company A has never authorized S to use the subject mark to run advertisement online. As such S has indeed acted in violation of subparagraph 1, Article 68 of the Trademark Act.

Further, due to the advertising by S, the consumer's impression about the subject mark being unique, distinctive is diluted, diminished. That is, S has also engaged in the act deemed as an action of infringing upon another's registered mark under subparagraph 1, Article 70 of the Trademark Act.

3. *S has engaged in trade practices in violation of the Fair Trade Act.* There is no agreement of any kind by and between Company A and S as S has alleged with respect to the group-buy campaign in question. The above online advertising led unwitting consumers to mistakenly

	<p>believe there must exist relationship between Company A and S arising from cooperation and/or licensing with respect to the group-buy campaign so they could pay with a 15% discount to buy the wristwatch from him. By engaging in said practice, S has acted in violation of paragraph one, Article 21 of the Fair Trade Act.</p> <p>4. <i>Company A is entitled to demand for removal of the trademark infringement by S.</i> Company A sued S under paragraphs one and two, Article 69 of the Trademark Act demanding for S to) refrain from using any mark identical with or similar to the subject mark, and b) remove and destroy all logos, advertising and promotional materials bearing the subject mark.</p> <p>5. <i>S is liable for the harm resulted to Company A.</i> The amount of damages awarded is calculated as 10% equal to the fees payable to obtain the license to use the subject mark as presented by Company A. That is, the amount of damages S shall pay to Company A for infringing upon the subject mark is TWD308,715 (10% of the sum of TWD3,087,150 payable to be licensed to use the subject mark).</p> <p>Further, S's Facebook page at issue has a followers group of some 160,000 viewers which means S is not without influence on the market. His unauthorized use of the subject mark owned by Company A is determined malicious infringement which impairs Company A's interests in fair competition and for which S shall pay punitive damages. Pursuant to paragraph one, Article 31 of the Fair Trade Act, a treble damages may be calculated against S; that is, the total damages payable to Company A by S shall be TWD926,145, i.e. three times the above amount of the damages (308,715*3). Hence, Company A's demand for an award of TWD500,000 is warranted.</p> <p>6. <i>S did not result harm to Company A's goodwill.</i> Defendant S made no representation online to in any way downplay or degrade the value of Company A's wristwatch products. Indeed, S did not obtain Company A's consent to working together with him on the group-buy campaign in question and, for keeping this from those who joined the campaign, S could be held reprehensible for failing to truthfully disclose information in violation of the Consumer Protection Act. Nevertheless, S cannot be determined and held to have resulted harm to Company A's goodwill.</p>
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TIPLO Outstanding case-9 2025 Trademark Opposition

<p>Name and brief description of case/portfolio:</p>	<p>商標異議案 商標名稱：邱益集標章 註冊號數：02268824 類別：25 指定商品：衣服；泳裝；內衣；成衣；鞋；圍巾；頭巾；領帶；領結；圍兜；冠帽；禦寒用耳罩；襪子；褲襪；服飾用手套；禦寒用手套；腰帶；圍裙；睡眠用眼罩；服飾用頭帶。 商標權人：邱益集</p>
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	<p>Trademark Opposition Disputed TM: Logo (Qiu, Yi-Ji) Reg. No.: 02268824 Class: 25 Designated Goods: clothes ; swimming suits ; underwear ; ready-made clothing ; shoes ; scarves headscarves ; neckties ; Bow ties ; bibs ; Caps ; ear muffs ; Sock ; Panty hose ; gloves ; winter gloves ; belt ; aprons ; sleep masks ; headbands Applicant: Qiu, Yi-Ji</p>
	<p>申請人以近似於本所客戶波露羅蘭公司「POLO」商標之「邱益集標章」申請註冊，本所發現後即提起異議，經提呈大量使用證據及說明該「邱益集標章」商標如何可能誤導消費者後，審查員於 2024 年 2 月做出撤銷「邱益集標章」商標註冊之決定。申請人不服提起訴願，經經濟部維持原處分而遭駁回。</p> <p>The applicant filed an application for the registration of the trademark "Logo (Qiu, Yi-Ji)," which was similar to the "POLO" trademark owned by our client, The Polo/Lauren Company, L.P. An opposition was immediately instituted with the IPO. After our submission of extensive evidence of use to demonstrate how TM "Logo (Qiu, Yi-Ji)" could potentially mislead consumers, the IPO decided in February 2024 to cancel its registration. In disagreement with the decision, the applicant filed an administrative appeal with the Ministry of Economic Affairs (MOEA), but the MOEA upheld the original decision and dismissed the appeal.</p>
IP advisers from your firm involved	<p>林志剛律師/專利師 黃闡億律師/專利代理人 J.K. LIN, Attorney-at-Law / Certified Patent Attorney Cheng-Yi HUANG, Attorney-at-Law / Patent Agent</p>
Other IP firms involved	N/A
Date(s)	<p>2022/12/16 : 「邱益集標章」取得註冊。 2023/03/16 : 提出異議。 2024/02/29 : 智財局發異議審定書。 2024/03/26 : 申請人提起訴願。 2024/06/20 : 經濟部駁回訴願。</p> <p>December 16, 2022 : The "Logo (Qiu, Yi-Ji)" trademark was registered March 16, 2023: An opposition was filed February 29, 2024: The Intellectual Property Office issued a decision on the opposition March 26, 2024: The applicant filed an administrative appeal June 20, 2024: The Ministry of Economic Affairs dismissed the appeal</p>
Why was it important?	<p>本案商標圖案為騎士手持寶劍、騎馬並戴著帽子，因為圖案角度的關係，其與本所客戶的商標近似程度較低，但本所從構圖的角度說服審查員兩商標均以騎在馬上、高舉長物之騎士騎馬圖構成商標之主要識別部分，並提出大量使用證據以說明本所客戶的商標為一般消費者所熟知，最終取得有利的決定，避免本所客戶著名商標的識別性被稀釋。本案說明即</p>

	<p>使兩造商標近似程度較低，仍得因引據商標為著名商標，而認定系爭商標有致混淆誤認之虞。</p> <p>The disputed trademark in this case features a knight holding a sword, riding a horse, and wearing a hat. Due to the design's angle, it bears a relatively low degree of similarity to our client's trademark. However, we persuaded the Examiner from a compositional perspective that both trademarks are structures of a knight on horseback, holding an object, which is the prominent and identifiable element, and also presented extensive use evidence to demonstrate that the general consumer is familiar with our client's trademark. Ultimately, we obtained a favorable decision, preventing the dilution of our client's trademark distinctiveness.</p> <p>The present case illustrates that even when the degree of similarity between the two trademarks is relatively low, a likelihood of confusion may still be found if the cited trademark is recognized as a well-known mark.</p>
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TIPLO Outstanding case-10 2025 Trademark Opposition

<p>Name and brief description of case/portfolio:</p>	<p>商標異議案 商標名稱：LAZARA 設計圖 註冊號數：02312299 類別：12、35 指定商品：自行車；自行車零組件；電動自行車；電動自行車零組件。 指定服務：自行車零售批發；自行車零件配備零售批發；電動自行車零售批發；電動自行車零件配備零售批發。 商標權人：京晨科技股份有限公司 Trademark Opposition Disputed TM: LAZARA and design Reg. No.: 02312299 Classes: 12、35 12: Bicycles; parts and components of bicycles; electric bicycles; parts and components of electric bicycle 35: Wholesale and retail of bicycles; wholesale and retail of parts and accessories of bicycles; wholesale and retail of electric bicycles; wholesale and retail of parts and accessories of electric bicycle Applicant: NUUO Inc.</p>
	<p>申請人以近似於本所客戶迪西儂紡織工業股份有限公司「ZARA」商標之「LAZARA 設計圖」申請註冊，本所發現後即提起異議，經提呈大量使用證據及說明該「LAZARA 設計圖」商標如何可能誤導消費者後，審查員於 2024 年 7 月做出撤銷「LAZARA 設計圖」商標註冊之決定。</p> <p>The applicant applied for registration of the trademark "LAZARA and design", which is similar to the "ZARA" trademark owned by our client, Industria de Diseno Textil, S.A. (Inditex, S.A.). An opposition was immediately instituted with the IPO. After submitting extensive evidence of use to demonstrate how TM "LAZARA and design" could potentially mislead consumers, the IPO decided in July 2024 to cancel the registration of "LAZARA and design".</p>

IP advisers from your firm involved	林志剛律師/專利師 黃闡億律師/專利代理人 J.K. LIN, Attorney-at-Law / Certified Patent Attorney Cheng-Yi HUANG, Attorney-at-Law / Patent Agent
Other IP firms involved	N/A
Date(s)	2023/08/01：「LAZARA 設計圖」取得註冊。 2023/11/01：提出異議。 2024/07/30：智財局發異議審定書。 August 1, 2023: The “LAZARA and design” trademark was registered November 1, 2023: An opposition was filed July 30, 2024: The Intellectual Property Office issued a decision on the opposition
Why was it important?	<p>本案商標圖樣雖然包括「ZARA」，但因其整體設計的關係，與本所客戶的商標在外觀上近似程度較低，是本所特別強調其讀音的高近似性，及二者指定於高度類似的商品/服務，以說服審查員二者有混淆之虞，最終取得有利的決定，避免本所客戶著名商標的識別性被稀釋。</p> <p>本案例說明，雖然審查基準規定外文商標的起首字母在決定商標近似與否有重要作用，但後續有多個字母相同及讀音高度相似的情形下，仍有被認定近似的可能。</p> <p>Although the trademark in this case includes the term “ZARA,” due to its overall design, the degree of visual similarity with our client’s mark is relatively low. Therefore, we specifically emphasized the high similarity in pronunciation between the two marks and the fact that they are designated for highly similar goods/services, in order to persuade the examiner that there was a likelihood of confusion. This ultimately led to a favorable decision, preventing dilution of our client’s well-known trademark.</p> <p>This case illustrates that, although the examination guidelines state that the initial letters of a foreign-language trademark play an important role in determining similarity, when several subsequent letters are identical and the pronunciations are highly similar, the marks may still be found similar.</p>

TIPLO Outstanding case-11 2025 Trademark Opposition

Name and brief description of case/portfolio:	<p>商標異議案 商標名稱：COTECi 註冊號數：02304004 類別：9 指定商品：電腦鍵盤；電腦滑鼠；手提電腦專用袋；耳機用耳罩套；筆記型電腦專用袋；筆記型電腦包；筆記型電腦套；平板電腦護套；平板電腦專用袋；筆記型電腦支架；電池；行動電話護套；智慧手機護套；手機套；手機座；手機架；電子設備專用架；行動電話車用固定架；手機保護殼；行動電話外殼。 商標權人：大陸商深圳市蘋網科技有限公司</p>
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	<p>Trademark Opposition Disputed TM: COTECi Reg. No.: 02304004 Class: 9 Designated Goods: Computer keyboards; computer mice; laptop bags; earmuff covers for headphones; laptop bags; laptop bags; laptop sleeves; tablet cases; tablet bags; laptop stands; batteries; mobile phone sheath; smartphone sheath; mobile phone case; mobile phone holder; mobile phone holder; special rack for electronic equipment; mobile phone car mount; mobile phone protective case; mobile phone shell Registrant: Shenzhen Pingwang Technology Co., Ltd.</p>
	<p>申請人以近似於本所客戶瑞士商PRTM有限公司「Cote&Ciel」商標之「COTECi」申請註冊，經發現後提起異議，本所提呈大量使用證據並說明該「COTECi」商標如何可能誤導消費者後，審查員於2025年1月做出撤銷「COTECi」商標註冊之決定。 The Registrant filed an application for registration of TM “COTECi”, which is similar to TM “Cote&Ciel” owned by our client, PRTM AG. Then an opposition was instituted. After we submitted a strong brief, together with extensive use proof, indicating why TM “COTECi” could possibly mislead consumers, the IPO made a decision cancelling the registration of TM “COTECi” in January 2025.</p>
IP advisers from your firm involved	<p>林志剛律師/專利師 黃闡億律師/專利代理人 J.K. LIN, Attorney-at-Law / Certified Patent Attorney Cheng-Yi HUANG, Attorney-at-Law / Patent Agent</p>
Other IP firms involved	N/A
Date(s)	<p>2023/07/01 : 「COTECi」商標取得註冊。 2023/09/28 : 提出異議。 2025/01/22 : 智財局發異議審定書。 July 1, 2023: TM “COTECi” was registered September 28, 2023: An opposition was filed January 22, 2025: The Intellectual Property Office issued a decision on the opposition</p>
Why was it important?	<p>本案「COTECi」商標圖案雖經一定程度的設計而與本所客戶商標在構圖上有所差異，但本所援引審查基準等實務見解，並提出大量使用證據以說明消費者較熟悉本所客戶的商標，最終取得有利的決定。本案說明即使兩造商標乍看近似程度較低，仍得援引審查基準，從不同角度切入後，說服智財局認定商標間有致混淆誤認之虞。 The disputed TM “COTECi” is not highly similar to TM “Cote&Ciel” in arrangement and structure. However, we submitted a strong brief citing the Examination Guidelines and explaining why consumers are more familiar with the client’s trademark. Through our convincing arguments and extensive evidence of use, the case ultimately resulted in a favorable decision. This case indicates that the Examiner may be persuaded to determine the likelihood of confusion and misidentification from different angles under the Examination</p>

	Guidelines, even where two trademarks initially appear to share only a low degree of similarity.
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TIPLO Outstanding case-12 2025 Trademark Revocation

<p>Name and brief description of case/portfolio:</p>	<p>商標廢止案 商標名稱：SAQUELLA 註冊號數：01980345 類別：30、35、43 指定商品： 30：茶葉、茶、茶飲料、咖啡、咖啡豆、可可、可可製品、巧克力飲料、即溶咖啡包、作為咖啡代用品的植物製劑、咖啡飲料、咖啡調味用香料、糖、甜點、糕點、麵包、鬆餅粉、食用澱粉、義大利麵條。 指定服務： 35：為零售目的在通訊媒體上展示商品、市場行銷、代理進出口服務、代理國內外廠商各種產品之報價、代理國內外廠商各種產品之經銷、為其他企業採購商品及服務、企業管理和組織諮詢、行銷研究諮詢顧問、網路拍賣、為工商企業籌備商展服務、購物中心、農產品零售批發、飲料零售批發、機械器具零售批發、食品零售批發、酒零售批發。 43：冷熱飲料店、飲食店、小吃店、茶藝館、咖啡廳、咖啡館、酒吧、飯店、外燴、流動咖啡餐車、流動飲食攤、餐廳、提供餐飲服務、備辦餐飲、玻璃器皿出租、烹飪設備出租、會場出租、快餐車、泡沫紅茶店、速食店、小吃攤。 商標權人：森悅股份有限公司</p> <p>Trademark Revocation Disputed TM: SAQUELLA Reg. No.: 01980345 Class: 30, 35, 43 Designated Goods: Class 30: Tea, tea beverages, coffee, coffee beans, cocoa, cocoa products, chocolate beverages, instant coffee packets, plant-based preparations as coffee substitutes, coffee beverages, coffee flavorings, sugar, desserts, pastries, bread, muffin mix, edible starch, pasta.</p> <p>Designated Services: Class 35: Displaying products on communication media for retail purposes; marketing; import/export agency services; quoting prices for various products from domestic and foreign manufacturers; distributing various products from domestic and foreign manufacturers; procuring goods and services for other enterprises; business management and organizational consulting; marketing research and consulting; online auctions; trade show preparation services for industrial and commercial enterprises; shopping centers; retail and wholesale of agricultural products; retail and wholesale of beverages; retail and wholesale of machinery and equipment; retail and wholesale of food; retail and wholesale of alcohol.</p> <p>Class 43: Hot and cold beverage shops, restaurants, snack shops, tea houses, coffee shops, cafes, bars, restaurants, catering, mobile coffee trucks, mobile food stalls, restaurants, catering services, catering services, glassware rental, cooking equipment rental, meeting venue rental, food</p>
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	trucks, bubble tea shops, fast food restaurants, snack stalls. Registrant: La Vita International Co., Ltd.
	本所發現申請人以本所客戶之「SAQUELLA」商標申請註冊，申請人與本所客戶間雖曾有商業往來，然並未涉及商標授權事宜，本所旋著手調查商標使用狀況並提起廢止，審查員於 2025 年 6 月做出廢止「SAQUELLA」商標註冊之決定。 The Registrant's TM "SAQUELLA" is exactly the same as our client's trademark. However, it was found that the parties had a business relationship but no license agreement or any other relevant arrangement. Then, a revocation petition was initiated based on an investigation into the status of trademark use. In June 2025, the IPO rendered a decision revoking the registration of TM "SAQUELLA".
IP advisers from your firm involved	林志剛律師/專利師 黃闡億律師/專利代理人 J.K. LIN, Attorney-at-Law / Certified Patent Attorney Cheng-Yi HUANG, Attorney-at-Law / Patent Agent
Other IP firms involved	N/A
Date(s)	2019/04/01 : 「SAQUELLA」取得註冊。 2025/02/19 : 提出廢止。 2025/06/27 : 智財局發廢止審定書。 April 1, 2019: TM"SAQUELLA" was registered February 19, 2025: A revocation petition was filed June 27, 2025: The Intellectual Property Office issued a decision on the revocation
Why was it important?	本案申請人雖曾代理並販售「SAQUELLA」相關商品，然其使用並不符合商標法上關於指定使用商品或服務之使用，本所援引審查基準並提出調查報告後，最終取得有利的決定。本案說明商標所有人應定期檢視商標之使用是否符合商標法之相關規範。 The Registrant had ever sold "SAQUELLA" products as a local distributor; however, such use does not constitute legal use under the Trademark Law. A favorable decision was subsequently rendered based on the investigation report and our strong arguments citing the Examination Guidelines. This case indicates that trademark owners should periodically review their trademark use to ensure compliance with the relevant regulations of the Trademark Law.

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