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## Taiwan

### Recent trends in the similarity of goods between pet products and human products: Latest court decisions in Taiwan

In the trademark examination of determining a likelihood of confusion, specifically concerning the similarity of goods between pet products and human products, previous examination practices have concluded that those goods were not similar. But the Taiwan Intellectual Property Court has made different decisions recently.

The court finds that even though the purpose of use of such products is different (for pets and humans respectively), the actual purchaser of both products is the human being that takes pet products from the shelf. It is assumed that these two kinds of goods are similar to a certain degree and are comparable.

#### Notable decisions in Taiwan

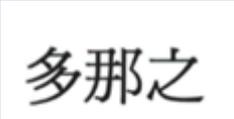
##### A. Taiwan Intellectual Property Court 2012 Xingshangsuzi No. 83 Decision (Trademarks involved: NuPlus & NUPLUS)

	Contested mark	Earlier trademarks
<b>Trademarks</b>	Kuang Ta Hsiang Foodstuffs Co., Ltd.	THE SUNRIDER CORPORATION
<b>Trademark Holder</b>		 and other "NUPLUS" marks
<b>Registration Date</b>	1 <sup>st</sup> March, 2011	16 <sup>th</sup> March, 2003 etc.
<b>Descriptions of Goods</b>	<u>Class 31</u> Pet food; Animal foodstuffs etc.	<u>Classes 5, 29, 32</u> Herbal extract nutritional supplements; Dried fruit; Herbal beverages etc.

**B. Taiwan Intellectual Property Court 2016 Xingshangsuzi No. 131 Decision (Trademarks involved: Chic coco & COCO)**

	Contested mark	Earlier trademarks
<b>Trademarks</b>		 and other “COCO” marks
<b>Trademark</b>	SMALL AS BIG CO. LTD.	CHANEL
<b>Holder</b>		
<b>Registration</b>	16 <sup>th</sup> April, 2014	16 <sup>th</sup> April, 1989 etc.
<b>Date</b>		
<b>Descriptions</b>	<u>Class 3</u>	<u>Classes 3 and 5</u>
<b>of Goods</b>	Cosmetics for animals	Cosmetics; Medicated soap etc.

**C. Taiwan Intellectual Property Court 2017 Xingshangsuzi No. 52 Decision (Trademarks involved: 多納滋 & 多那之)**

	Contested mark	Earlier trademarks
<b>Trademarks</b>		 and other “多那之” marks
<b>Trademark</b>	ProGrand Development Enterprise	Donutes Corporation
<b>Holder</b>	Co.,Ltd.	
<b>Registration</b>	1 <sup>st</sup> April, 2016	16 <sup>th</sup> July, 2012 etc.
<b>Date</b>		
<b>Descriptions</b>	<u>Class 31</u>	<u>Classes 29, 30 and 32</u>
<b>of Goods</b>	Stall food for animals etc.	Beast milk; Tea; Aerated water etc.

## Opinion of the Taiwan Intellectual Property Court

### 1. The similarity between products for human and pets

The present societies have undergone a transformation in social structure. For any goods and services for human beings, one could easily find the corresponding goods and services in the pet-related classes.

### 2. The target of pet products and human products are the same

The purchasers of the goods offered under the marks are both human beings. Therefore, the relevant public in this case would be identical - the general consumer.

### 3. The pet products and human products may share the same source of origin as a business may go cross-industry

The consumer survey evidences presented in court show that interviewees appear to consider shampoos for humans can be used as substitutes for shampoos for pets. Some people appear to believe these goods are equivalent and share similar formulas.

### 4. The trade channels of human products and pet products may overlap

It is common for a retail location to have merchandises for human and pets at the same time, for instance, there are a tremendous number of hypermarkets and superstores that sell pet products and human products simultaneously. Furthermore, pet cafes (or animal cafes) are on the rise over the last 20 years. Apart from selling food and drinks for human beings and animals, and they also serve as a relaxing spot for humans and pets. The channels of trade of pet products and human products are likely to overlap with each other.

## Wisdom's Commentary and Suggested Strategies

The recent decisions handed by the Intellectual Property Court overturned the opinion previously held by the court. Although the end users of pet products are pets, pets do not have any buying power and the customers are still the human beings. Therefore, the ultimate target customers for both pet and human products are humans.

Nevertheless, pet products and human products are similar goods in common sense usage. For example, pet food and human food are all regarded as "food". The relevant public of such products

is expected to foresee the companies producing pet or human products enter into another industry. Besides, their source of origin and trade channels might overlap. Not one of the above factors is dispositive and the degree of relatedness of goods must be viewed in the context of all the factors.

The courts' opinions have changed over time and the court is now more likely to consider the boundaries between human products and pet products are blurred. Future trademark applicants shall be more careful when analyzing whether their goods and services are in conflict with earlier marks.

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