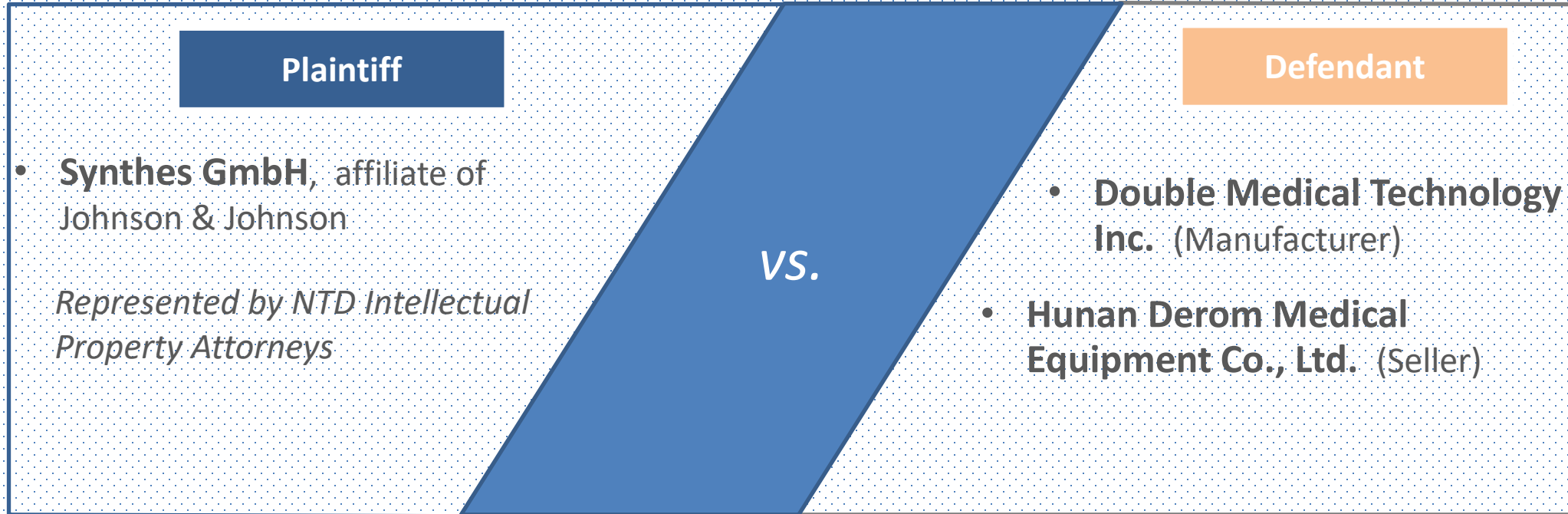


Patent and Trademark Infringement dispute

NTD Intellectual Property Attorneys

➤➤➤ Synthes and DM patent infringement dispute



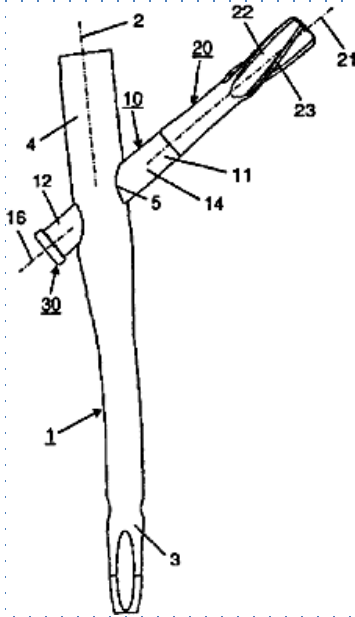
➤➤ Synthes and DM patent infringement dispute

● *Asserted Patent and infringing product*

CN 100393287 C

Patent No.: ZL 03827088.9

Title: A device for the treatment of femoral fractures



Synthes patent

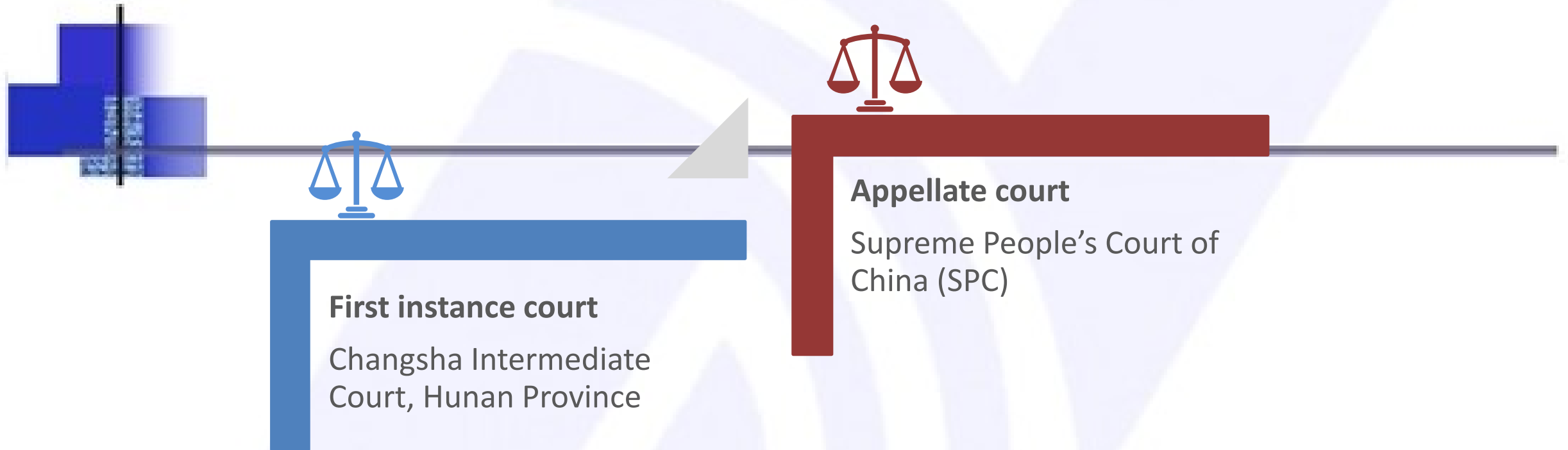


Synthes patented product



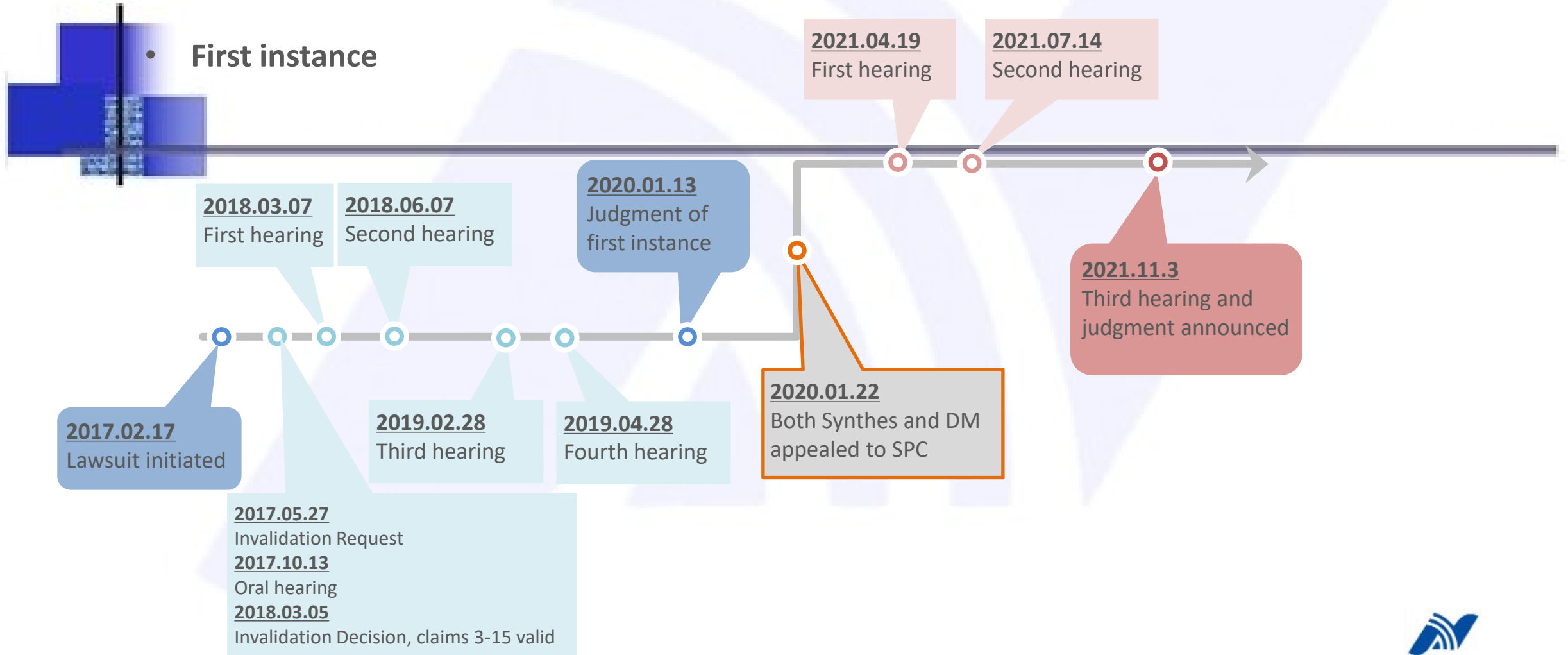
DM product

➤➤➤ Synthes and DM patent infringement dispute



➤➤➤ Synthes and DM patent infringement dispute

- Second instance



➤➤➤ Synthes and DM patent infringement dispute

Judgment of First instance

- No-infringement and defense of prior art of DM were rejected
- Infringement was found

First instance court ruled

- Injunction, and
- Damages of 1 million RMB

Judgment of SPC

- Injunction affirmed, while the scope of the model of the infringing products was extended from 46 to 64, all model accused by plaintiff
- Ruled a damage of 20 million RMB, the claimed damages by plaintiff was full agreed



➤➤➤ Synthes and DM patent infringement dispute

● Judgment of SPC

The damage calculation proposed NTD was fully agreed by SPC, the DM's infringement profit and the calculation amount is above 20 million RMB, detailed as follows:

- Amount of sold infringing product is from the sale record of Derom e-commerce website's in Notary Report No. 1882 (the small sale amount from the sale number of a specific model of nail (968), the sale number of a specific model of blade (952)),
- Price of a single nail and a single blade is based on the invoices provided by DM (**2200 RMB/set**)
- The contribution of Derom sale to the DM sale of the infringing products is based on the average of DM contribution disclosed in the IPO Prospectus in 2014 to 2016 (**5.27%** = (4.4%+5.4%+6.02%)/3)
- Profit ratio is based on the average profit ratio disclosed in the IPO Prospectus in 2013-2016 (**53%** = (53.7%+53.4%+54.6%+53.0%)/4)
- The benefit contributed by the patented technical solution (such as easy operation, market contribution,
- DM's evidence obstruction fact determined by (i) DM is able to provide the sale amount, profit due to the traceable requirement by NMPA, (ii) DM refused to provide such evidences even after SPC asked them to provide it.



➤➤➤ Synthes and DM patent infringement dispute

The SPC commented

- “The judgment in this case has highlighted the strong determination of the people’s courts to strengthen the protection of intellectual property rights in key fields relating to the people’s livelihood”.
- It further reflected the attitude of the Chinese courts towards “equally protecting domestic and foreign rights holders”.



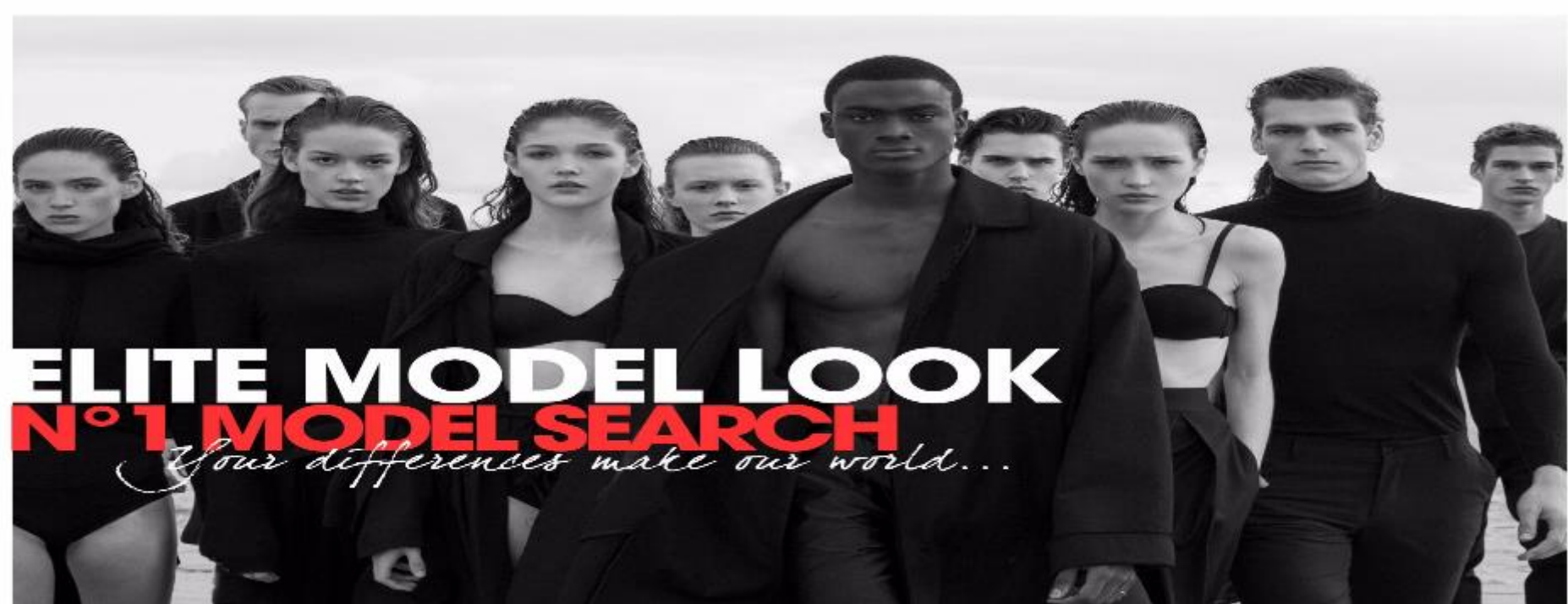
elite
MODEL LOOK



elite

Trademark Infringement Case





One of the world's
most well-known, widest, and most influential global
Model Contests





CONTE
NT

I Brief Introduction

II Core Disputes

III Significance

ELITE MODEL LOOK



Brief Introduction

PARTIES AND TRADEMARKS AT ISSUE



No.10099486



No. G663732

Elite

VS.

Star Fashion & Xing Yuan

ELITE MODEL LOOK

LITIGATIONS



Shanghai Xuhui Court

First
Instance

Win!



Shanghai IP Court

Second
Instance

Win!



Core Disputes

Defendants Obtained the Trademark License, or Not ?

The defendants did not perform the obligations under the Contract at issue

Elite had not got prior notice before the rights and obligations under the Contract transferred

The trademark under the Contract was not the trademarks in question



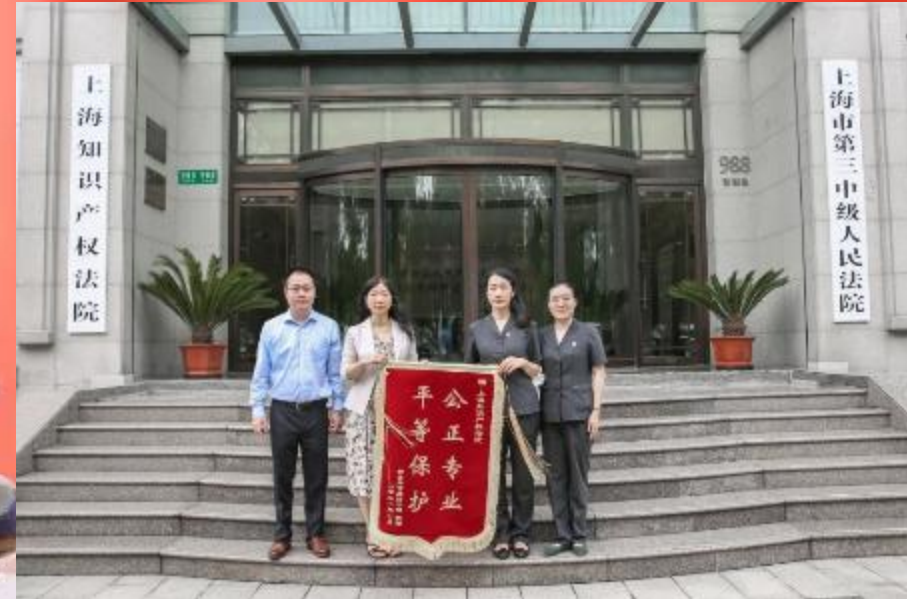
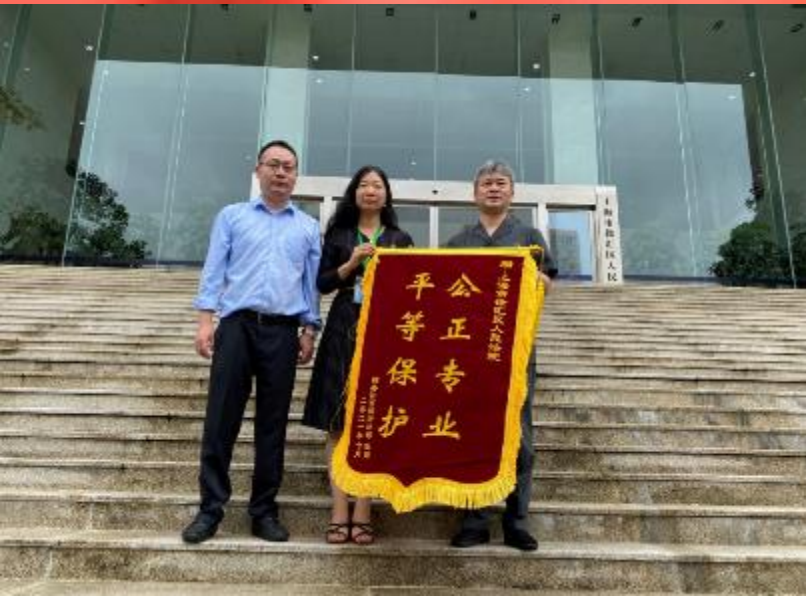
Significance

A photograph of a legal desk. In the foreground, a black gavel with a gold band rests on a dark wooden sound block. To the left, a stack of books with gold-embossed covers is visible. In the background, a pair of scales of justice sits on a wooden base. A pen and a pair of glasses are on a notepad in the middle ground. The scene is lit with soft, natural light.

Damages RMB 3.62 Million

Publishing Statement of Apology

At present, China is comprehensively strengthening judicial protection on intellectual property, and equally protecting the legitimate rights and interests of domestic and foreign right holders





Thank You!



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