



हरियाणा HARYANA

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RANJANNARULA
ARBITRATOR

Appointed by the .In Registry - National Internet Exchange of India

In the matter of:
G.A. Modefine S.A.
via Penate 4
Mendrisio 6850
Switzerland

Through

It's Constituted Attorney
Mr. S K Dutt of M/s. L. S. Davar & Co.

.....**Complainant**

Domain Bazaar
M/s. Domain 4 Sale
233, Malakpet
Hyderabad
Andhra Pradesh
Email: domainbazaar@gmail.com

.....**Respondent**

AWARD

1) The Parties:

The Complainant is G.A. Modefine S.A., Via Penate 4, Mendrisio 6850, Switzerland. The Complainant is represented by its constituted attorney Mr. S. K. Dutt vide Power of Attorney dated 5th February 2009. The complaint has been submitted by Ms. Anju Agrawal of L.S. Davar & Co. The Respondent is Domain Bazaar, M/s. Domain 4 Sale, 233, Malakpet, Hyderabad, Andhra Pradesh.

2) The Domain Name, Registrar & Registrant:

The disputed domain name is www.armaniexchange.in. The Registrar is Name.com LLC (R65-AFIN). The registrant is Domain Bazaar (Respondent).

3) Procedural History:

The Complainant filed this complaint to the .In Registry and .In Registry appointed "Ranjan Narula" ("The Arbitrator") as Sole Arbitrator under clause 5 of its policy. The Arbitrator submitted his statement of acceptance and declaration of impartiality and independence on 20th August 2009 then the complaint was produced before the Arbitrator on 21st August 2009. The notice was issued to the Respondent on 24th August 2009 with a deadline of 10 days to submit his reply. On 27th August, the Respondent replied stating that he is ready to transfer the domain upon compensation. On 6th September 2009, the Arbitrator sent a notice to the Respondent inviting his attention to Rule 14 of INDRP Rules whereby it is upon parties to agree on a settlement. The Respondent was informed that the proceedings can be terminated only on communication that the settlement has been reached between the parties. No response was filed by the Respondent. Thereafter, on 15th September 2009, the Arbitrator sent a notice to the parties that matter will be decided based on the facts and documents on record.



4) Factual Background:

The Complainant is a public limited company, duly incorporated in Switzerland in the year 1988. The word ARMANI is the surname of Mr. Giorgio Armani, who adopted the same in the year 1974 as a trade mark to showcase his first fashion collection in Italy.

The Complainant has about 263 trademark registrations for the mark ARMANI throughout the world, including India and also other trademarks consisting of the word ARMANI. In India, the Complainant has submitted a list of registration which shows following registrations in India:

Trademark	Registration No.	Filing Date	Class
EMPORIO ARMANI	756807	11 Jul 1997	3
EMPORIO ARMANI	756810	11 Jul 1997	9
EMPORIO ARMANI	756808	11 Jul 1997	25
EMPORIO ARMANI	1008222		
EMPORIO ARMANI (label)	756811	11 Jul 1997	18
EMPORIO ARMANI	1008221	09 May 2001	3
A/X ARMANI EXCHANGE	1041618	03 Sep 2001	25
ARMANI CASSA (DEVICE OF ARROW)	11341799	01 Mar 2005	7

The Complainant has about 650 domain names registered in its name throughout the world all having ARMANI as a significant part thereof. A list of domains has been submitted with the complaint. The Complainant has the following domain names registrations in India:

Domain Names

armanicollezioni.in
armanicollezioni.co.in
armanicasa.in
armanicasa.co.in
armanijunior.co.in
armanijunior.in
armaniprive.co.in
giorgioarmani.co.in
emporioarmani.co.in



5) Parties Contention:

(1) Complainant

The Complainant has submitted that:

- 1) Domain name www.armaniexchange.in is identical to the well known and registered trademark ARMANI of the Complainant.
- 2) The Respondent has no right or legitimate interest in respect of the impugned domain name. ARMANI is not the personal or surname name, trade/service mark, trading name, of the Respondent. He has no reason whatsoever to adopt the domain name www.armaniexchange.in which is a well-known registered trademark of the Complainant.
- 3) The Respondent has adopted the impugned domain name with dishonesty and bad faith with the mala-fide intention to trade upon the goodwill and reputation associated with the trade mark ARMANI of the Complainant, thereby earning undue profits.
- 4) The Respondent has registered the impugned domain name for the purpose of selling, renting or otherwise transferring the domain name registration to the Complainant, who is the proprietor of the trade mark/name ARMANI, or to a competitor of the Complainant, for a valuable consideration.
- 5) That by using the impugned domain name, the Registrant has intentionally attempted to attract Internet users to the Respondent's website or other on-line location, by creating a likelihood of confusion with the Complainants' trade name or trade mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the Respondent's website or location.

(2) Respondent

The Respondent has not filed any response to the complaint inspite of opportunity being given. The only response from Respondent was an email dated 27th August, 2009 whereby they offered to transfer the domain name upon compensation. It is therefore obvious that the Respondent's intention in registering the domain was to



sell the domain for monetary compensation. In other words, the response from the Respondent that it is willing to transfer the domain upon compensation shows that it has no legitimate interest in the domain name.

6) Discussion and Findings:

In view of the above submissions and voluminous documents provided in support of use and registration of the mark 'ARMANI' alone and in combination with other words, I am inclined to agree that the Complainant has established better and prior rights in the mark ARMANI. Further, they have registered a number of domain names containing the word/mark ARMANI. Thus the web users associate the word ARMANI with the goods and services of the Complainant Company. The Complainant has also satisfied the three conditions as per paragraph 4 of the policy:

- (1) the Respondent's domain name is identical or confusingly similar to the trademark in which he has rights;
- (2) the Respondent has no rights or legitimate interests in respect of the domain name; and
- (3) the domain name has been registered in bad faith.

It may be mentioned that since the Respondent did not file any response and rebut the contentions of the Complainant, it is deemed to have admitted the contentions contained in the Complaint. Thus prima facie case has been made out by the Complainant in its favor. Further it has established prior rights in the trademark ARMANI. As, the Respondent has neither used the domain name nor established its legitimate rights or interests in the domain name, an adverse inference as to their adoption of an identical domain name has to be drawn. Based on the documents filed by the Complainant, it can be concluded that the domain name 'ARMANI' is identified with the Complainant's product or services, therefore its adoption by the Respondent shows 'opportunistic bad faith'. The Respondent's bad faith is further exemplified by them asking for compensation to transfer the domain name. Thus, provision of paragraph 6(i) of the policy are clearly applicable to the facts and circumstances of this case thereby evidencing that the registration of the domain name is in bad faith.



7) Decision:

For all the reasons discussed above, the Arbitrator orders that the domain name
<www.armaniexchange.in> be transferred to the Complainant.



**RANJAN NARULA
SOLE ARBITRATOR
NIXI
INDIA
1 October, 2009**