

उत्तर प्रदेश UTTAR PRADESH

BA 482382

**Dr. Bodhisatva Acharya**  
**ARBITRATOR**

(Appointed by IN Registry-National Internet Exchange of India)

Case No. .... Of 2011

ARBITRATION AWARD: DISPUTED DOMAIN NAME : <armaniwatches.in>

In the matter of:

**Giorgia Armani S.P.A., Milan,**  
**Swiss Branch Mendresio**  
**(Formally Known as G.A Modefine S.A.)**  
**A Company duly incorporated**  
**Under the laws of Switzerland**  
**Via Penate 4, Mendrisio 6850,**  
**Switzerland**

Filed by its authorized representative attorney -  
**L.S. DAVAR & CO.**  
**5/1, FIRST FLOOR,**  
**KALKAJI EXTENSION,**  
**New Delhi- 110019, India.**

..... Complainant

BS

**Vs.**

M/s Xu Tao  
Jinxu Dadao 2100 hao,  
Shanghai, -200200  
CN  
Email- [xu.tao@kkinfo.com](mailto:xu.tao@kkinfo.com)

.....Respondent.

## **A W A R D**

### **1. The Parties:**

The complainant in this arbitration proceeding is *Giorgia Armani S.P.A.*, Milan, Swiss Branch Mendresio, (Formally Known as *G.A Modefine S.A.*), A Company duly incorporated Under the laws of Switzerland, Via Penate 4, Mendrisio 6850, Switzerland filed by its authorized representative attorney L.S. DAVAR & CO., 5/1, FIRST FLOOR, KALKAJI EXTENSION, New Delhi- 110019, India.

Respondent in this arbitration proceeding is M/s Xu Tao, Jinxu Dadao 2100 hao, Shanghai, -200200, CN  
Email: [xu.tao@kkinfo.com](mailto:xu.tao@kkinfo.com)

### **2. The Domain Name, Registrar & Registrant:**

The disputed domain name is [www.armaniwatches.in](http://www.armaniwatches.in)

### **3. Procedural History:**

The complainant, through its authorized representative, filed this complainant to NIXI regarding the disputed domain name www.armaniwatches.in following the clause 4 of the policy of .IN Registry and .IN Registry appointed Dr. Bodhisatva Acharya (The Arbitrator) as Sole Arbitrator under clause 5 of the policy. The Arbitrator submitted his statement of acceptance and declaration of Impartiality and the Independence and the complaint was produced before the Arbitrator on April 9<sup>th</sup>, 2012 and the Arbitrator sent a notice, to the Respondent through his email for the Arbitration Proceeding on April 18<sup>th</sup>, 2012, to submit his reply but nothing was submitted to Arbitrator till the date of award hence the AWARD is being declared on the June 10<sup>th</sup>, 2012 as Ex-parte.

### **4. Factual Background:**

- (a) The Complainant is a public limited company duly incorporated in Switzerland, in the year 1988. "Armani" is the surname of Mr. Giorgio Armani, who adopted the name in the year 1974 as a Trademark to show case his first fashion collection in Italy.
- (b) Complainant, in the name of which the 'ARMANI' Trademarks are registered, has about 263 Trademark registrations only for the mark ARMANI throughout the world, including India.
- (c) Complainant has about 650 domain names registered in its name throughout the world, all having ARMANI as a significant part thereof.



- (d) Complainant has the following domain names registered in its name in India all having ARMANI as a significant part thereof:

S.NO.	Domain Name	Expiry Date
1.	<u>GIORGIOARMANI.Co.IN</u>	08.07.2016
2.	<u>EMPORIOARMANI.CO.IN</u>	23.07.2016
3.	<u>ARMANIPRIVE.CO.IN</u>	15.06.2015
4.	<u>ARMANIJUNIOR .IN</u>	01.02.2013
5.	<u>ARMANIJUNIOR .CO.IN</u>	01.02.2013
6.	<u>ARMANICOLLEZIONI .IN</u>	01.02.2013
7.	<u>ARMANICOLLEZIONI.CO.IN</u>	01.02.2013
8.	<u>ARMANICASA .IN</u>	01.02.2013
9.	<u>ARMANICASA.CO.IN</u>	01.02.2013
10.	<u>ARMANI .IN</u>	18.06.2015
11.	<u>ARMANI.CO .IN</u>	17.04.2012

Approximate International / worldwide sales of the goods of the Complainant bearing the Trademark ARMANI has for the past 6 Years are as follows:

YEAR	Sales (in Millions of EURO)
2002	2,203.67549438
2003	3,603,132,773.11
2004	3,082.42759642
2005	3,293.92361921
2006	2,755.99502859
2007	2,352.79270203

- (e) Goods sold and offered for sale by the Complainant under the Trademark ARMANI are of excellent quality and thus have acquired reputation and goodwill throughout the world, including India and intending purchasers identify and recognize goods of the Complainant by the trademark ARMANI.
- (f) Respondent above name is, to the best of the knowledge of the complainant, an individual residing in Shanghai.

- (d) Lastly the complainant filed this complaint for Arbitration proceeding and the complaint was produced before the Arbitrator on April 9<sup>th</sup>, 2012 and the Arbitrator sent a notice, to the Respondent through his email for the Arbitration Proceeding on April 18<sup>th</sup>, 2012, to submit his reply but nothing was submitted to Arbitrator till the date of award hence the AWARD is being declared on the June 10<sup>th</sup>, 2012 as Ex-parte.

## **5. Parties Contentions:**

(a) Complainant contends that

- (i) The Registrant's domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights;
- (ii) The Registrant has no rights or legitimate interests in respect of the domain name; and
- (iii) The Registrant's domain name has been registered or is being used in bad faith, and the domain name be transferred to the Complainant.

(b) Respondent contends that

The respondent gave no response and produced no reply.

## **6. Discussion & Findings:**

- (a) Domain name armaniwatches.in is identical to the registered Trademark ARMANI of the Complainant and the provisions of Paragraph 3(b) (VI) (2) of the IN DOAMIN NAME RESOLUTION POLICY are invoked as the Respondent has no right or legitimate interest in respect of the impugned domain name. ARMANI is not the personal or surname, trade/service mark, trading name, of the Respondent. Respondent has no reason whatsoever to adopt the domain name armaniwatches.in



which is a well known registered Trademark of the Complainant. The Respondent is called upon to state why he has adopted the domain name armaniwatches.in.

- (b) Respondent has the best of the knowledge of the Complainant, 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 Trademark ARMANI of the Complainant, thereby earning undue profits. This is evident from the fact that the registrant has linked his domain name to that of the Complainant.
- (c) Respondent has registered the impugned domain for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant, who is the proprietor of the Trademark ARMANI, or to a competitor of the Complainant, for a valuable consideration.
- (d) Respondent has registered the impugned domain in order to prevent the Complainant - the proprietor of the Trademark and/ or service mark ARMANI from reflecting the mark in a corresponding domain name.
- (e) Using the impugned domain, the Registrant has intentionally attempted to attract Internet users to the respondent's website or other on-line location, by creating a likelihood of the confusion with the Complainant's Trade name or Trademark 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.
- (f) Respondent has registered the impugned domain of the purpose of selling the domain name to the Complainant who is the proprietor of the Trademark ARMANI, or to a competitor of the complainant as apparent on the website of subject domain name which reflects that domain is available for sale for consideration of Euro 6,200.

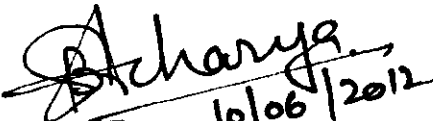


- (g) The Complainant thus has satisfied the Arbitrator on all the parameters as mentioned in the Paragraph 4 of the Policy (INDRP).

## 7. Decision:

Hence the Arbitrator decides, 'the Disputed Domain Name www.armaniwatches.in is identical or confusingly similar to registered trademark of the Complainant and Respondent has no right to use the disputed domain name and the Respondent domain name has been registered in bad faith.

The Arbitrator further decides and orders that the domain name www.armaniwatches.in shall be transferred to the Complainant with immediate effect.

  
10/06/2012  
Dr. BODHISATVA ACHARYA  
SOLE ARBITRATOR  
NIXI

DATED: June 10<sup>TH</sup>, 2012,  
PLACE: NEW DELHI,  
INDIA.

