



उत्तर प्रदेश UTTAR PRADESH

BS 051198

**Dr. Bodhisatva Acharya**  
ARBITRATOR

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

**ARBITRATION AWARD**

DISPUTED DOMAIN NAME : < www.ferragamo.in >

In the matter of:

Salvatore Ferragamo S.p.A

Via Mercalli 201-Osmannoro

50019 Sesto Fiorentino-Firenze

Italy

Filed by its authorized representative attorney -

Sujata Chaudhri and Sahil Yadav, IP Gurus

A-45, sector 63

Noida, Uttarpradesh, India

..... Complainant.

***Vs.***

Anna Beaulieu  
C/o Oversee Investment Inc.  
77 Massachusetts Avenue  
Cambridge, Massachusetts  
MA 02139  
United States of America  
E-mail: [corporateddomainportfolios@gmail.com](mailto:corporateddomainportfolios@gmail.com)

.....Respondent.

## **A W A R D**

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

**The complainant** in this arbitration proceeding is Salvatore Ferragamo S.p.A,  
Via Mercalli 201-Osmannoro, 50019 Sesto Fiorentino-Firenze, Italy filed by its  
**authorized representative attorney** Sujata Chaudhri and Sahil Yadav, IP Gurus, A-45,  
sector 63, Noida, Uttar Pradesh, India

**Respondent** Anna Beaulieu, C/o Oversee Investment Inc., 77 Massachusetts Avenue,  
Cambridge, Massachusetts, MA 02139, United States of America.

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

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

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

The Complainant, through its authorized representative, filed this complainant to NIXI regarding the disputed domain name [www.ferragamo.in](http://www.ferragamo.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 September 20<sup>th</sup>, 2013 and the Arbitrator sent a notice, to the Respondent through his email for the Arbitration Proceeding on September 30<sup>th</sup>, 2013, to submit his reply but nothing was submitted to Arbitrator till the date of award hence the AWARD is being declared on the November 8<sup>th</sup>, 2013 as Ex-parte.

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

- (a) The Complainant, Salvatore Ferragamo S.p.A, is a well-known Italian company engaged in the business of manufacture and sale of exceptionally fine footwear, handbags and other fashion accessories, including wallets, luggage, belts, apparel, fragrances, gift items and costume jewelry (collectively "the Complainant's Products"). The Complainant was founded in 1927 and since then it has manufactured and sold the Complainant's Products around the world. The Complainant has continuously used the marks FERRAGAMO and SALVATORE FERRAGAMO ("collectively "FERRAGAMO Marks" since at least as early as 1927 with respect to shoes and 1968 with respect to handbags. The Complainant's Products are sold all over the world either through directly operated stores, franchisees or through third-party multi brand stores.
- (b) The Complainant's products bearing the FERRAGAMO Marks have been, and continue to be sold in countries, such as, Italy, United States, United Kingdom, France, Germany, Canada, People's Republic of China, Hong Kong, Japan, Korea, Taiwan, India, Indonesia, Malaysia, Singapore, Thailand, Australia, Spain, Switzerland, Saudi Arabia, Indonesia, Belgium, and the Philippines. Specifically in India, the Complainant has sold the Complainant's Products bearing the FERRAGAMO Marks since at least as early as September, 1994. These products continue to be sold here. In fact, the Complainant has operated, and continues to operate stores through franchisees in India. In addition, the Complainant's Product is sold through third-party multi-brand stores.
- (c) The Complainant has, over the years, sold millions of dollars of the Complainant's product bearing the FERRAGAMO Marks in countries around the world. Since 2005 the average annual sales of these products has averaged approximately Euros 650 million. The Complainant spends millions of dollars advertising the Complainant's products all over the world. For instance, during the years 2000-2010, the Complainant has spent worldwide an annual average of Euro 40 million on advertising and promoting the Complainant's Products including products bearing the FERRAGAMO Marks.
- (d) Each year, the Complainant spends huge sums of money advertising the Complainant's Products all over the world. As a result of the Complainant's

extensive advertising and promotional efforts, as well as the high quality and enormous commercial success of the Complainant's Products, the FERRAGAMO Marks have become extremely well-known within the fashion industry as well as among the consuming public at large. These marks are now recognized and relied upon as a symbol of quality shoes, handbags and other products and marketed exclusively by the Complainant.

- (e) On 31 August, 2013, exactly one month after the Registrant registered the disputed domain name, the Complainant's representatives received an anonymous email from an email address [domainpros@163.com](mailto:domainpros@163.com). This email informed the Complainant that the sale could be completed rapidly through SEDO.COM or ESCROW.COM. Although the sender did not sign off as Respondent or use the email address provided in the WHOIS record associated with the disputed domain name, the inescapable conclusion is that it was sent by someone who has the right to sell the domain name. It may be inferred either that the email was sent by the Respondent or someone authorized by the Respondent.
- (f) Lastly the complainant filed this complaint for Arbitration proceeding and the Arbitrator submitted his statement of acceptance and declaration of Impartiality and the Independence and the complaint was produced before the Arbitrator on September 20<sup>th</sup>, 2013 and the Arbitrator sent a notice, to the Respondent through his email for the Arbitration Proceeding on September 30<sup>th</sup>, 2013, to submit his reply but nothing was submitted to Arbitrator till the date of award hence the AWARD is being declared on the November 8<sup>th</sup>, 2013 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.



## 6. Discussion & Findings:

- A. The Complainant has demonstrated statutory and common law rights in the FERRAGAMO marks. It owns registrations for the FERRAGAMO Marks in countries and jurisdictions around the world, including in India. Furthermore, the Complainant has used the FERRAGAMO Marks extensively and continuously since at least as early as 1927, and continues to do so. The Respondent has registered the domain name FERRAGAMO.IN. The domain name incorporates the Complainant's FERRAGAMO mark. Thus, there is no question that the disputed domain name, FERRAGAMO.IN, is identical to the Complainant's FERRAGAMO mark.
- B. The Respondent cannot have any right or legitimate interest in the disputed domain name because the disputed domain name incorporates the FERRAGAMO mark, a mark in which the Complainant has sole and exclusive rights and that has become well-known owing to the Complainant's efforts. The Respondent is not a licensee of the Complainant, nor has the Registrant ever been authorized by the Complainant to use the FERRAGAMO Marks or register the disputed domain name. Indeed, the Complainant has no relationship whatsoever the Registrant. Respondent is a cyber squatter and has contacted the Complainant with an offer to sell the domain name, there is no question that the Registrant registered the domain name for the purpose of exploiting the domain name for commercial gain. This is clear evidence of the Registrant's lack of rights and legitimate interest in the domain name. Respondent's selection of a domain name that incorporates the Complainant's FERRAGAMO Marks in their entirety and use of the domain name to redirect consumers to other sites is not bona fide use and does not confer any rights or legitimate interests on the registrant.
- C. The Respondent registered the domain name with the purpose of selling it to make a profit. She offered to sell the domain name to the Complainant. This offer to sell is evidence of the Registrant's bad faith. The Respondent who has no relationship whatsoever to the Complainant or the FERRAGAMO Marks, registered the disputed domain name in bad faith. The Complainant has a long and well established reputation in the FERRAGAMO Marks through its exclusive use in the fashion industry throughout the world, including in India. There can be no doubt that the Respondent aware of the FERRAGAMO Marks when she chose and registered the disputed domain name, and in fact chose the domain name because it was confusingly similar to the complainant's well-known FERRAGAMO mark and intended to capitalize on that confusion. This constitutes evidence of bad faith. Furthermore, the past conduct of the Registrant speaks to the Registrant's bad faith. The Respondent has been respondent in prior domain name proceedings. The Complainant notes that in all of these proceedings has been decided against the Registrant. Thus, there is no question that the Registrant is a cyber-squatter. It is well settled that cyber squatting is

evidence of bad faith. The Registrant domain name revolves to web site that has links to other sites. Linking to third-party sites is evidence of bad faith use. The Respondent is not using the domain name in connection with any legitimate business. Clearly, the Respondent registered the domain name with the intention of depriving the Complainant from using the domain name. This demonstrates the Registrant's bad faith.

- D. 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.ferragamo.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.ferragamo.in shall be transferred to the Complainant with immediate effect.

  
Dr. BODHISATVA ACHARYA  
SOLE ARBITRATOR  
NIXI

DATED: November 8<sup>th</sup>, 2013,  
PLACE: NEW DELHI,  
INDIA