



**URS | DETERMINATION**  
(URS Procedure 9, URS Rules 13)

**URS DISPUTE NO. 01D047A5**

Determination DEFAULT

**I. PARTIES**

Complainant: Salvatore Ferragamo S.p.A. (Italy)  
Complainant's authorized representative(s): Spheriens (Italy)

Respondent: Lin Zhimao (China)

**II. THE DOMAIN NAME(S), REGISTRY OPERATOR AND REGISTRAR**

Domain Name(s): FERRAGAMO.APP  
Registry Operator: Charleston Road Registry Inc.  
Registrar: GoDaddy.com, LLC

**III. PROCEDURAL HISTORY**

Complaint submitted: 2018-07-11 20:45  
Lock of the domain name(s): 2018-07-16 21:29  
Notice of Complaint: 2018-07-24 09:51  
Default Date: 2018-08-08 00:00  
Default Notice: 2018-08-08 11:25  
Panel appointed: 2018-08-08 11:44

**IV. EXAMINER**

Examiner's Name: Jonathan Agmon

The Examiner certifies that he has acted independently and impartially and to the best of his knowledge has no known conflict in serving as the Examiner in this administrative proceeding.

**V. RELIEF SOUGHT**

The Complainant requests that the domain name be suspended for the balance of the registration period.

The Respondent has not submitted a Response.

**VI. STANDARD OF REVIEW**

Clear and convincing evidence.

## VII. DISCUSSIONS AND FINDINGS

### A. Complainant:

The Complainant is an Italian corporation operating in manufacturing, marketing and selling fine shoes, handbags expanding to additional products such as wallets, luggage, belts, apparel, fragrances, gift items and costume jewelry through the brand.

The Complainant markets and distributes its products internationally using Salvatore Ferragamo stores, Duty-Free shops and In-Store shops.

In order to protect its intellectual property right, the Complainant registered the trademark FERRAGAMO. The Complainant invests extensively in advertising and other promotional efforts and due to the quality of its products it enjoys substantial commercial success, and its trademarks have become well-known within the fashion industry, as well as with the public at large internationally.

### B. Respondent:

The Respondent is a private individual, Zhimao Lin, who registered the disputed domain name <ferragamo.app> on May 8, 2018.

### C. Procedural findings:

Having reviewed the communications records, the Examiner finds that MFSD has discharged its responsibility under the URS Procedure paragraphs 3 and 4 and URS Rules paragraph 4.

### D. Findings of fact:

The Complainant is a corporation, which has attained a significant worldwide reputation under its trademark FERRAGAMO. In order to protect its intellectual property, the Complainant has also registered its FERRAGAMO trademarks in numerous jurisdictions, including:

- Italian Registration No. 1232276, registered September 25, 1937.
- International Registration No. 397649, registered March 23, 1973.
- European Union Trademark Registration No. 103259, registered April 20, 1998.

In addition, since 1996, the Complainant owns registrations for several domain names comprising of the registered its trademark FERRAGAMO, such as <ferragamo.com> and <ferragamo.cn>.

### E. Reasoning:

The Complainant grounds on which it is entitled to relief are:

1. The registered domain name is identical or confusingly similar to a word or mark for which the Complainant holds a valid national or regional registration and that is in current use;
2. Registrant has no legitimate right or interest to the domain name;
3. The domain name was registered or is being used in bad faith.

Even though the Respondent has defaulted, URS Procedure 1.2.6, requires Complainant to make a prima facie case, proven by clear and convincing evidence, for each of the following three elements to obtain an order that a domain name should be suspended.

#### **1. The domain name(s) is(are) identical or confusingly similar to a word mark**



The Complainant is the owner of the several registered trademarks FERRAGAMO as mentioned above. The Complainant's trademark is incorporated in its entirety in the disputed domain name.

The domain name includes the Complainant's mark in its entirety, together with the gTLD ".app". It is widely established that the addition of the gTLD to the disputed domain name does not avoid confusing similarity (see *Accor v. Noldc Inc.*, WIPO Case No. D2005-0016; *F. Hoffmann-La Roche AG v. Macalve e-dominios S.A.*, WIPO Case No. D2006-0451, and *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. D2000-0003; *L'Oréal v Tina Smith*, WIPO Case No. 2013-0820; *Titoni AG v Runxin Wang*, WIPO Case No. D2008-0820; and *Alstom v. Itete Peru S.A.*, WIPO Case No. D2009-0877). Therefore, the gTLD ".app" is without significance in the present case since the use of a TLD is technically required to operate a domain name.

Therefore, the Panel finds that the disputed domain name is confusingly similar to the FERRAGAMO mark pursuant to URS 1.2.6.1.

## **2. Respondent has no rights or legitimate interests to the domain name(s)**

The Complainant provided evidence showing that it is the owner of the FERRAGAMO trademark, that it did not license the Respondent to act on its behalf and there is no evidence that Respondent is known as FERRAGAMO or owns an identical trademark or offers any kind of services under the disputed domain name. Respondent provided no response to the complaint.

Complainant has met its burden pursuant to URS 1.2.6.2.

## **3. The domain name(s) was(were) registered and is(are) being used in bad faith**

The Complainant evidence to show that the trademark FERRAGAMO was registered long before the disputed domain name was registered. Some Panels find that with well-known trademarks, the late registration of the disputed domain name is sufficient to show bad faith registration and use. (See *Virgin Enterprises Limited v. Zhang Tian Li*, FORUM Case No. FA1612001707288) In this case, the Complainant's trademark is well-known globally and therefore the Panel finds that the late registration is clear indication of bad faith registration and use of the disputed domain name. Moreover, the ".app" gTLD can also suggest to unsuspecting Internet user that the Respondent is offering a computer application offering products from the Complainant. The fact that the Complainant trademark is well-known and the nature of the disputed domain name clearly show that the Respondent must have known of the Complainant and its trademark and has acted in bad faith when registering and using the disputed domain name. (See *Deutsche Lufthansa AG v. pending update et al.*, FORUM Case No. FA1605001676147; see also *Deutsche Lufthansa AG v. Ilia Ivanov*, FORUM Case No. FA1404001554367). In this case, the disputed domain name is inactive. Past Panels have held that passive holding, under certain circumstances would also amount to indications of bad faith registration of use. In this case the fame of the Complainant's trademark and the gTLD

suggesting an app for the Complainant's product is sufficient indications for the finding that the passive holding is evidence of bad faith registration and use of the disputed domain name. (See *WhatsApp, Inc. v. LATICINIOS ABC CACU et al.*, FORUM Case No. FA1602001661093).

The Panel concludes that the disputed domain name was registered and is being used in bad faith to attract for commercial gain and that Complainant has complied with URS 1.2.6.3 (b).

## **VIII. DETERMINATION**

### A. Demonstration of URS elements

Demonstrated

### B. Complaint and remedy

Complaint: Accepts

Domain Name(s): FERRAGAMO.APP Suspends for the balance of the registration period

### C. Abuse of proceedings

Finding of abuse of proceedings: The Complaint was neither abusive nor contained material falsehoods.

### D. Publication

Publication: Publish the Determination

## **SIGNATURE**

Name: Jonathan

Surname: Agmon

Date: 10 August 2018