COMPLAINANT
FAUSTO SANTINI S.r.l.
Via Licia n. 39,00183
Rome, Italy
Telephone- 39-041 5204820
fax- 39-041-5223974
E-mail n.bellotto@weblaw.it
File Number: CPR 0218
Date of Commencement: July 31, 2002
Domain Name: www.faustosantini.com
Registrar: Hangang Systems, Inc. D/B/A DOREGI.Com

RESPONDENT
MiSun Lee
Injung APT 104-404 Dangsu-Dong Kwunsun-Ku, Suwon,
Kyuongki-do, Korea
Telephone + 82-31-416-8941
fax + 82-314168941
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Before Carrie Menkel-Meadow, Arbitrator

PROCEDURAL HISTORY

The Complaint was filed with CPR on July 31, 2002 and, after review for administrative compliance, served on the Respondent on August 1, 2002. The Respondent DID NOT file a Response on or before August 21, 2002. I was appointed Arbitrator pursuant to the Uniform Domain Name Dispute Resolution Policy (“UDRP”) and Rules promulgated by the Internet Corporation for Domain Names and Numbers (ICANN). Upon the written submitted record including the Complaint and attached exhibits, I find as follows:

FINDINGS

Respondent’s registered domain name, <www.faustosantini.com>, was registered with Hangang Systems on August 16, 2001. In registering the name, Respondent agreed to submit to this forum to resolve any dispute concerning the domain name, pursuant to the UDRP.

The UDRP provides, at Paragraph 4(a), that each of three findings must be made in order for a Complainant to prevail:

i. Respondent’s domain name is identical or confusingly similar to a trademark or service mark in which complainant has rights; and

ii. Respondent has no rights or legitimate interests in respect of the domain name; and

iii. Respondent’s domain name has been registered and is being used in bad faith.
IDENTITY/CONFUSING SIMILARITY: Complainant alleges that www.faustosantini.com is identical to Complainant’s trademark, FAUSTO SANTINI, which applies to Italian style shoes and bags. The complainant, the company, Fausto Santini S.r.i., holds the trademark “Fausto Santini”, registered in Italy on 29.12.95, number 0129933110, exhibit #2 to the complaint, and registered in Japan on 31.08.92, number 2448517, exhibit # 3 to the complaint.

Complainant has undertaken the sale and manufacture of Italian style shoes and bags since 1971 and maintains several shops in the cities of Milan, Florence, Paris, Dusseldorf and Barcelona and has expanded its markets in Europe, Asia and America. Complainant alleges that its mark is well known all over the world for high quality Italian products.

Respondent, in failing to respond, provides no claims or arguments with respect to the nature or identity of the domain name and trademark. In email correspondence with Complainant (attached as an exhibit, #5, to the complaint), Respondent claims an “American friend” with the name of “faustosantoni” which is a misspelling and confusingly similar use of the name “Fausto Santini”.

I therefore conclude that the registered domain name IS identical to Complainant’s protected mark.

RIGHTS AND LEGITIMATE INTERESTS: Complainant alleges that Respondent has no rights or legitimate interests with respect to the domain name at issue. In support for this allegation, Complainant notes that the Respondent is not using the contested domain site and has simply posted a notice that “this domain is for sale.”. Respondent failed to respond to the complaint and offers no claim or support for a legitimate interest in the domain name.

UDRP Paragraph 4(c) provides that Respondent’s rights or legitimate interests in a domain name may be demonstrated, without limitation, by showing that (a) before notice to Respondent of the dispute, Respondent has used, or made demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or (b) Respondent has been commonly known by the domain name; or (c) Respondent is making legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

Respondent has failed to demonstrate any legitimate use or rights in the domain name.

I therefore conclude that Respondent DOES NOT have rights or legitimate interests with respect to the domain name at issue.

BAD FAITH: In support of the contention of Respondent’s bad faith registration and use, Complainant notes that respondent has posted a “this domain is for sale” notice on the website which is not used for any other legitimate purpose (see Exhibit 4 to the complaint). The site also contains links to two porno sites which complainant alleges has damaged its commercial reputation and caused economic harm. Complainant also alleges that given increased market activity in Asia, respondent intended to use and benefit from an attempted bad faith sale of its domain name to a well known company. Complainant attempted to contact the respondent to purchase the domain name and respondent replied by demanding a bid from Complainant and then did not reply at all (see Exhibit # 6).

Paragraph 4(b) of the UDRP provides that indications of bad faith include, without limitation, (a) registration for the purposes of selling, renting or transferring the domain name to the Complainant for value in excess of Respondent’s cost; (b) a pattern of registration in order to prevent Complainant from reflecting the mark in a corresponding domain name; (c) registration for the primary purpose of disrupting the business of a competitor; or (d) an intentional attempt to attract, for commercial gain, Internet users to Respondent’s web site by creating a likelihood of confusion with Complainant’s mark as to the source, sponsorship, affiliation or endorsement of Respondent’s web site or location, or of a product or service on Respondent’s web site or location.

Given Respondent’s posting of a “this domain is for sale” notice and the potentially damaging use of links to porno sites on a site with the name of a protected legitimate trademark of commercial goods, I find that this name was
registered in bad faith. Respondent has failed to provide any claims, arguments or support for any good faith use of the domain name.

I therefore conclude that Respondent DID register and use the domain name in bad faith, as that term is defined in the ICANN Policy.
CONCLUSION

In light of my findings above that (a) the registered domain name IS identical or confusingly similar to Complainant’s protected mark; (b) Respondent DOES NOT have rights or legitimate interests with respect to the domain name at issue; and (c) Respondent DID register and use the domain name in bad faith, as that term is defined in the ICANN Policy, I find in favor of the COMPLAINANT.

REMEDY

Complainant’s request to transfer the domain name <www.faustosantini.com> is hereby GRANTED. The domain name shall be transferred to Complainant FAUSTO SANTINI S.r.l.

__/s/ Carrie Menkel-Meadow_____________   August 28, 2002
   Signature of Arbitrator                     Date