



हरियाणा HARYANA

L 693141

RANJAN NARULA

ARBITRATOR

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

In the matter of:

Repetto S.A.S  
30, Avenue de Messine  
75008 Paris  
France

.....Complainant

Pfister Hotel  
Milwaukee, WI 53214,  
USA  
Milwaukee 53202  
US

..... Respondent

Disputed Domain Name: [www.repetto.co.in](http://www.repetto.co.in)

**AWARD**

### **1) The Parties:**

The Complainant in this arbitration proceeding is Repetto S.A.S.S, 30, Avenue de Messine 75008, Paris, France. The Complainant is represented by its authorized representatives Nameshield, 27 rue des Arenes, 49100, Angers, France who have submitted the present Complaint.

The Respondent in this arbitration proceeding is Zhaxia, Pfister Hotel, Milwaukee, WI 53214, USA, Milwaukee 53202, US as per the details available in the whois database maintained by National Internet Exchange of India (NIXI).

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

The disputed domain name is repetto.co.in. The Registrar is Business Solutions

The Registrant is Zhaxia, Phister Hotel, Milwaukee, WI 53214, 53202, US

### **3) Procedural History:**

This arbitration proceeding is in accordance with the .IN Domain Name Dispute Resolution Policy (INDRP), adopted by the National Internet Exchange of India (NIXI). The INDRP Rules of Procedure (the Rules) were approved by NIXI on 28<sup>th</sup> June, 2005 in accordance with the Indian Arbitration and Conciliation Act, 1996. By registering the disputed domain name with the NIXI accredited Registrar, the Respondent agreed to the resolution of the disputes pursuant to the .IN Dispute Resolution Policy and Rules framed thereunder.

As per the information received from NIXI, the history of the proceedings is as follows.

In accordance with the Rules 2(a) and 4(a), NIXI formally notified the Respondent of the Complaint and appointed Rachna Bakhru as the Sole Arbitrator for adjudicating upon the dispute in accordance with the Arbitration and Conciliation Act, 1996, and the Rules framed thereunder, .IN Domain Dispute Resolution Policy and the Rules framed thereunder. The Arbitrator submitted the Statement of Acceptance and Declaration of impartiality and independence, as required by NIXI.

The complaint was produced before the Arbitrator on February 2, 2015 and the notice was issued to the Respondent on February 2, 2015 at his email address with a deadline of 10 days to submit his reply to the arbitration. The Respondent did not submit any response. On February 24, 2015 the Arbitrator granted further opportunity to the Respondent to submit its response on or before March 03, 2015. However, no response was submitted by the Respondent within the stipulated time. In the circumstances, the complaint is being decided based on materials submitted by the Complainant and contentions put forth by them.





### **Grounds for administrative proceedings:**

- A. The disputed domain name is identical with or confusingly similar to a trade mark or service mark in which the Complainant has rights;
- B. The Respondent has no rights or legitimate interests in respect of the impugned domain name;
- C. The impugned domain name was registered and is being used in bad faith.

### **4) Summary of the Complainant's contentions:**

#### **The Complainant in support of its case has made the following submissions**

- a) The Complainant Repetto S.A.S., is created by Rose Repetto in 1947, REPETTO was originally a French ballet shoes company. The company develops exclusive products, the most technical in the dance industry. It diversified its activities and now REPETTO creates unique products for dance (soft ballet shoes, tutus), shoes (ballerinas, Zizi, Michael), a ready-to-wear garde robe (dresses, skirts), items of leather goods (bags, purses) and perfume.
- b) The Complainant submits that REPETTO owns and communicates on the Internet through various websites in the worldwide. The main one is [www.repetto.com](http://www.repetto.com) and has been registered on 20/04/1997.
- c) The Complainant also owns several trademark registrations consisting in the term REPETTO in numerous countries such as WIPO under Registration nos. 1040048, 679526 and 433035. Furthermore, a Google search on the wording REPETTO provides several results, all of them being related to the Complainant.
- d) The Complainant contends that the disputed domain name repetto.co.in is identical to his trademark REPETTO. Indeed the wording REPETTO is included in its entirety in the disputed domain name, without any adjunction of letter or word.
- e) The Complainant further submits that the addition of the ccTLD ".CO.IN" is not sufficient to escape the finding that the domain is confusingly similar to its trademark and does not change the overall impression of the designation as being connected to the trademark of the Complainant.
- f) The Complainant argues that the Respondent has no rights or legitimate interests in the disputed domain name. He has no relationship with the Complainant's business and is not authorized or licensed to use the trademark REPETTO.
- g) According to whois information, the Respondent is "Pfister Hotel". Thus, he is not known by the disputed name repetto.co.in. Moreover, the website in relation with the disputed domain name invites the Internet users to contract the domain name owner to purchase.
- h) Furthermore, the Respondent has sent an email to the Complainant in order to purpose to sell him the disputed domain name repetto.co.in.
- i) The disputed domain name is indicated has being for sale on SEDO for \$5000 USD. The Complainant contends that this price is considered far in excess of the out of pocket expenses for registering the disputed domain name.



- j) Thus, the Complainant contends that the domain name was registered or acquired primarily only for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant who is the owner of the trademark REPETTO.
- k) Thus, the Complainant contends that the Respondent has registered the disputed domain name and is using it in bad faith.

#### **5) Respondent**

The Respondent has not filed any response to the Complaint though they were given an opportunity to do so. Thus the complaint had to be decided based on submissions on record and analyzing whether the Complainant has satisfied the conditions laid down in paragraph 3 of the policy.

#### **6) Discussion and Findings:**

The submissions and documents provided by Complainant in support of use and registration of the mark 'REPETTO' leads to the conclusion that the Complainant has superior and prior rights in the mark 'REPETTO'. Thus it can be said a) the web users are likely to associate the word 'REPETTO' with the goods and services of the Complainant b) the web users would reasonably expect to find Complainant's products and services at the [www.repetto.co.in](http://www.repetto.co.in) and c) they may believe it is an official website of the Complainant and the services being offered/advertised are associated or licensed by the Complainant.

Based on the elaborate submission and documents, I'm satisfied that the Complainant has established the three conditions as per paragraph 4 of the policies which are listed below. Further the Respondent has not contested the claims therefore deemed to have admitted the contentions of the Complainant.

- (1) the Respondent's domain name is identical or confusingly similar to the trademark in which he has rights;

It has been established by the Complainant that it has trademark rights, and rights on account of prior and longstanding use of the mark 'REPETTO'. The Complainant has in support submitted voluminous documents. The disputed domain name contains or is identical to Complainant's 'REPETTO' trademark in its entirety. The mark 'REPETTO' which forms key part of the disputed domain name, and is being used by the Complainant to identify its services. The mark has been highly publicized by the Complainant and has earned a considerable reputation in the market.

- (2) the Respondent has no rights or legitimate interests in respect of the domain name;

The Complainant has not authorised the Respondent to register or use the 'www.repetto.co.in' domain name. Further, the Respondent has never used the





disputed domain name for legitimate business services and their purpose for registration appears to be purely for monetary gain.

The Respondent has not rebutted the contentions of the Complainant and has not produced any documents or submissions to explain its adoption or show interest in protecting his own rights and interest in the domain name. Further, the Respondent has never used the disputed domain name for legitimate business services in connection with a bonafide offer of goods or services.

The above leads to the conclusion that Respondent has no rights or legitimate interest in respect of the disputed domain name 'www.repetto.co.in'.

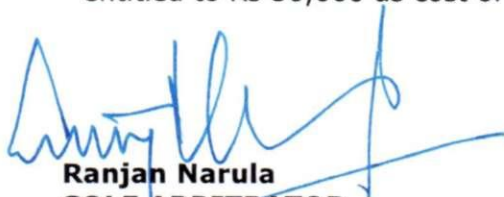
(3) the domain name has been registered in bad faith.

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. As, the Respondent has not established its legitimate rights or interest in the domain name, an adverse inference as to their adoption of domain name has to be drawn.

Based on the documents filed by the Complainant, it can be concluded that the domain name/mark 'www.repetto.co.in' is identified with the Complainant's products, therefore its adoption by the Respondent shows 'opportunistic bad faith'.

#### **7. Decision:**

In view of the foregoing, I am convinced that the Respondent's registration and use of the domain name 'www.repetto.co.in' is in bad faith. The Respondent has no rights or legitimate interests in respect of the domain name. In accordance with the Policy and Rules, the arbitrator directs that the disputed domain name be 'www.repetto.co.in' transferred to the Complainant. The complainant is also entitled to Rs 50,000 as cost of the proceedings.



**Ranjan Narula**  
**SOLE ARBITRATOR**  
**NIXI**  
**INDIA**

**March 10, 2015**