

# ARBITRATION IN FASHION IP RELATED CONTRACTS

Confidential Avv. Fabio Moretti June 5 2015

# FASHION

Industry with significant specificities:

Image → Trademark

Product → Quality

Advertising → Selling a lifestyle

Commercial seasons → Need of regular quick activities

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# FRANCHISING AND LICENSING AGREEMENTS

- Strong I.P. content
- Use of a trademark and/or tradename for production and distribution against payment of royalties
- Duration referred to seasons rather than dates
- Arbitration clauses
- Need of use the injunction procedural instrument to enforce I.P. rights for protection of commercial seasons

# AN EXPERIENCE ON THE FIELD

## Licensing Agreement

- Licensor – UK Company
- Licensee – Italian Company
- Expiry – Fixed date (instead of commercial season)
- Applicable law: English
- Arbitration clause: ICC conducted in Italian and in Italy
- Negotiation to extend fails. Licensee stops paying royalties
- Challenges in appointment of arbitrator
- Knowledge of industry by arbitrator
- Injunction orders by courts in Milano

# MEDIATION

## Why mediation in fashion

- Quick dispute resolution
- Confidentiality issue
- Keeping good relationship between the parties
- Mediator helps the parties with no emotional implications

# FASHION MEDIATION

- Mediator who knows the industry
- Mediator who can deal with an international mediation
- Mediator who can deal with strong personalities

## FMA

Association created in Italy by three major international brands

Mediators experts in negotiation techniques

Often former in house counsels

Cooperation with Venice Arbitration Chamber

# Thanks

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