

ADMINISTRATIVE PANEL DECISION

CLARIANE v. DMITRY GOLOPOLOSOV

Case No. D2024-4754

1. The Parties

The Complainant is CLARIANE, France, represented by Scan Avocats AARPI, France.

The Respondent is Dmitry Golopolosov, Russian Federation.

2. The Domain Name and Registrar

The disputed domain name <newskorian.com> is registered with Internet Domain Service BS Corp (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 19, 2024. On November 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 20, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on November 21, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 11, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 12, 2024.

The Center appointed Assen Alexiev as the sole panelist in this matter on December 18, 2024. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant was established in 2003 under the name “Korian”. It manages Europe’s largest network of long-term care nursing homes, specialized clinics, assisted living facilities and shared housing for seniors, home care and hospital home care services, serving more than 300,000 patients or residents in six European countries with 60,000 employees in 1,300 facilities. The Complainant’s turnover in 2023 amounted to EUR 5,047 million. In July 2023, the Complainant changed its company name to “Clariane”.

The Complainant is the owner of a number of trademark registrations for the sign “KORIAN” (the “KORIAN trademark”), including the following:

- the European Union Trade Mark KORIAN with No. 005192224, registered on August 29, 2007 for goods and services in International Classes 16, 35, 36, 38, 39, 41, 43 and 44; and
- the International trademark registration KORIAN with No. 1327848, registered on August 4, 2016 for goods and services in International Classes 10, 16, 20, 35, 36, 37, 38, 39, 41, 42, 43 and 44.

The Complainant is also the owner of the domain names <korian.com>, registered on May 14, 1999, <korian.fr>, registered on November 17, 2008, and <korian.eu>, registered on February 4, 2009, which resolve to the Complainant’s official website.

The disputed domain name was registered on July 1, 2024. It is inactive, but previously resolved to an incomplete website in the Russian language.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

The Complainant states that the disputed domain name is confusingly similar to its KORIAN trademark, because it incorporates the entirety of the trademark, and the addition of the dictionary word “news” has an insignificant impact on the overall perception of the disputed domain name, where the KORIAN trademark is easily recognizable.

According to the Complainant, the Respondent has no rights or legitimate interests in respect of the disputed domain name, because it is not commonly known under it and has no relevant trademark rights, there is no relationship between the Parties, and the Complainant has not authorized the Respondent to register or to use the disputed domain name.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. It submits that the KORIAN trademark has been used in commerce since 2004, so the Respondent must have been aware of it when registering the disputed domain name in 2024, and must have registered it having the Complainant’s KORIAN trademark, company name, and domain names in mind. The Complainant adds that all results of an online search using the keywords “Korian” or “News Korian” relate to the Complainant’s websites or business, and points out that the word “Korian” is not a common word in French or English, but an arbitrary term created to designate the Complainant. The Complainant also notes that the Respondent never answered the cease-and-desist letters sent to it by the Complainant.

The Complainant notes that the disputed domain name is inactive, and submits that its passive holding suggests an intention of taking advantage of the Complainant’s rights, because the disputed domain name identically reproduces the Complainant’s trademark in combination with a descriptive word.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of the KORIAN trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the KORIAN trademark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the KORIAN trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms (here, "news") may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the KORIAN trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The disputed domain name is confusingly similar to the distinctive KORIAN trademark of the Complainant, which had already been in use for twenty years when the disputed domain name was registered. The Respondent has not submitted a Response, has not responded to the Complainant's cease-and-desist letters, and has not given any plausible explanation for its choice of the disputed domain name and for its plans how to use it without taking unfair advantage of the Complainant's trademark. The Panel notes that the Complainant provided evidence that in July 2024 the disputed domain name resolved to an apparently

incomplete website in the Russian language purportedly for the general provision of news, but without any specific articles. The Complainant also provided evidence of a fully functional “news” page on the Complainant’s primary domain name, providing various articles about the Complainant’s activities and initiatives. The Panel notes that the word “korian” has no meaning in the Russian language, and there was no apparent explanation for the choice of this term in the previous use of the disputed domain name, or subsequently claimed by the Respondent. Indeed, at some point after receiving the Complainant’s cease-and-desist letters in August and September 2024 the Respondent removed this previous content, and directed the disputed domain name to resolve to an error page. Considering the composition of the disputed domain name and deletion of this previous content after Complainant’s cease-and-desist letters, such use appears pretextual or at minimum intended to unfairly derive viewership from an affiliation with the Complainant’s trademark – absent further evidence or explanation, such prior use is insufficient to demonstrate rights or legitimate interests in the disputed domain name for the purposes of the Policy. In these circumstances, it appears as more likely than not that the Respondent’s aim in registering the disputed domain name must have been to target or otherwise take advantage of the Complainant and its trademark, so the Complainant’s prima facie case has remained unrebutted.

The Panel therefore finds that the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

The Complainant’s coined, registered trademark KORIAN predates the registration date of the disputed domain name by seventeen years and has been extensively used in six countries. The Respondent has not submitted a Response and has not brought forward any arguments why the registration of the disputed domain name should be considered as having been made in good faith. The Panel therefore accepts as more likely than not that the Respondent has registered the disputed domain name with knowledge of the Complainant’s trademark and with the intention of taking advantage of its goodwill. The Panel therefore finds that the Respondent registered the disputed domain name in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have found that the non-use of a domain name (including a blank or “coming soon” page) would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3.

Having reviewed the available record, the Panel notes the distinctiveness and reputation of the Complainant’s KORIAN trademark, the composition of the disputed domain name, which appears to have been created to target the Complainant and its trademark, and the failure of the Respondent to submit a Response. These circumstances suggest that the Respondent’s passive holding of the disputed domain name is in bad faith.

The Panel therefore finds that the Complainant has established the third element of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <newskorian.com> be transferred to the Complainant.

/Assen Alexiev/

Assen Alexiev

Sole Panelist

Date: December 27, 2024