

## **ADMINISTRATIVE PANEL DECISION**

CLARIANE v. yang li min

Case No. D2025-1255

### **1. The Parties**

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

The Respondent is yang li min, China.

### **2. The Domain Name and Registrar**

The disputed domain name <koriansa.com> is registered with Gname 272 inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on March 26, 2025. On March 27, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 28, 2025, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Redacted for privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 2, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint in English on April 3, 2025.

On April 2, 2025, the Center informed the Parties in Chinese and English, that the language of the Registration Agreement for the disputed domain name is Chinese. On April 3, 2025, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

The Center verified that the Complaint together with the amended 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 in English and Chinese of the Complaint, and the proceedings commenced on April 3, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 23, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 24, 2025.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on May 5, 2025. 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 provides care services to the elderly and the vulnerable, notably through the management of retirement homes and specialized clinics. It manages a network of long-term care nursing homes, specialized clinics, assisted living facilities and shared housing for seniors, home care and hospital home care services. The Complainant has three main activities: care homes, healthcare facilities and services, and home and alternative living solutions. Serving more than 300,000 patients or residents in six European countries, with more than 1,300 facilities, the Complainant employs more than 60,000 people in Europe and had a EUR 5,047 million group turnover in 2023.

Established in 2003 under the name “Korian”, the Complainant is a publicly traded company since 2006. The Complainant changed its company name to “Clariane” in 2023 but is still widely known as “Korian” and uses the name “Korian” also through its websites, including the website at “www.korian.it” which is dedicated to its activities in Italy. The Complainant maintains 12 nursing homes and several “Korian” clinics in Italy, including in Liguria.

The Complainant owns an international trademark portfolio for the KORIAN trademark, including but not limited to: the European Union trademark registration No. 005192224, KORIAN (word), registered on August 29, 2007; and the International trademark registration No. 1210590, KORIAN (word), registered on February 27, 2014. Furthermore, the Complainant owns a domain name portfolio containing many domain names incorporating its KORIAN mark, including the following: <korian.com> domain name registered on May 14, 1999; <korian.fr> domain name registered on November 17, 2008; and <korian.eu> domain name registered on February 4, 2009.

The disputed domain name was registered on February 11, 2025, and is therefore of a considerably later date than the Complainant’s KORIAN marks. The Complainant provides evidence that the disputed domain name is used to redirect Internet users to a website offering gambling services. The Panel notes that on the date of this Decision, the disputed domain name still directs to an active website offering lottery and gambling services.

Incidentally, the Panel also notes that the disputed domain name has already been involved in a prior dispute under the Policy, resulting in a decision ordering the transfer of the disputed domain name to the Complainant (see *Korian v. WhoisGuard Protected, WhoisGuard, Inc./ Chevarin Herve and Name Redacted*, WIPO Case No. [D2021-0091](#)). Nevertheless, according to its own statements, the Complainant let the registration of the disputed domain name lapse, after which the Respondent registered it on February 11, 2025.

#### **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.

Notably, the Complainant contends that the disputed domain name is confusingly similar to its trademarks and adds particularly that the acronym “SA” added to the Complainant’s trademark in the disputed domain name is used in France to designate the legal form “Société Anonyme”, which was the legal form of the Complainant before becoming a SE “Société Européenne” in 2022. The Complainant further contends that

the Respondent is in no way connected to, or licensed by the Complainant, that there are no licenses or other justifications for the use of the Complainant's trademarks in the disputed domain name, and that the Respondent's use of the disputed domain name for gambling services does not confer any rights or legitimate interests on it. The Complainant adds that the Respondent is not engaged in a bona fide offering of goods or services but is holding the disputed domain name for commercial gain by reference to the Complainant's marks. The Complainant additionally submits that the Respondent targeted the disputed domain name and the Complainant's marks in it by registering the disputed domain name just after it became available again due to a failure to renew by the Complainant, who was the previous owner of this domain name until November 2024. The Complainant finally also argues that the Respondent's use of the disputed domain name has intentionally attracted Internet users to the Respondent's website or other online location for commercial gain, by creating a likelihood of confusion with the Complainant's mark, and that such registration and use is therefore in bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **Language of the Proceeding**

The language of the Registration Agreement for the disputed domain name is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that the Registration Agreement is available in English, the Registrar's official website is available in English even with an IP address located in Asia, and the disputed domain name is in Latin characters, not Chinese.

The Respondent did not make any submissions with respect to the language of the proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

### **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 3.0](#), section 1.7.

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

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, “sa”, 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 mark 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.

Further, upon review of the facts and evidence provided by the Complainant, the Panel notes that the disputed domain name directs to a gambling and lottery website. In the Panel’s view, this shows that the Respondent’s intention is not to make any use of the disputed domain name as a bona fide provider of goods or services, or to make legitimate noncommercial use or fair use of the Complainant’s trademarks in the disputed domain name. Instead, it shows the intention on the part of the Respondent to include the Complainant’s well-known trademarks into the disputed domain name to obtain unlawful commercial gains.

Additionally, the Panel has also considered the nature of the disputed domain name, being confusingly similar to the Complainant’s trademarks and consisting only of the Complainant’s well-known trademark combined with the descriptive acronym “SA”, which stands for “Société Anonyme”, i.e., the former company type of the Complainant in France. The Panel finds that this means that the disputed domain name by itself carries a risk of implied affiliation with the Complainant and cannot constitute fair use, as it effectively impersonates the Complainant and its products or suggests sponsorship or endorsement by the Complainant (see [WIPO Overview 3.0](#), section 2.5.1).

The Panel finds 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.

In the present case, the Panel notes that the Respondent has registered a domain name which is confusingly similar to the Complainant’s well-known trademarks, see in this regard also previous decisions under the Policy which have explicitly recognized that the Complainant’s KORIAN marks are well-known, such as *Korian v. Coline CHRETIEN*, WIPO Case No. [D2022-4511](#). Therefore, the Panel finds that by registering the disputed domain name which incorporates the Complainant’s well-known mark in its entirety, the

Respondent deliberately and consciously targeted the Complainant's prior well-known trademarks for KORIAN. This finding is incidentally further confirmed by the fact that the Respondent seems to have targeted the disputed domain name by registering the disputed domain name shortly after it became available again due to a failure to renew by the Complainant, who was the previous owner of this domain name until November 2024. While this fact does not justify the Complainant's failure to timely renew the disputed domain name, the Panel finds that in the context of this case, these elements create a presumption of bad faith on the part of the Respondent. The Panel also notes that the Complainant's trademarks in this case predate the registration date of the disputed domain name by many years, and that the Respondent could not have been reasonably unaware of them. Furthermore, the Panel notes that even a cursory Internet search at the time of registration of the disputed domain name would have made it clear to the Respondent that the Complainant owned prior rights in its trademarks for KORIAN. In the Panel's view, the above elements clearly indicate bad faith on the part of the Respondent, and the Panel therefore finds that it has been demonstrated that the Respondent registered the disputed domain name in bad faith.

As to use of the disputed domain name in bad faith, the disputed domain name directs Internet users to an active website offering lottery and gambling services. The Panel accepts that this shows the intention on the part of the Respondent to attract, for commercial gain, Internet users to the website linked to the disputed domain name by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of such website. This constitutes direct evidence of bad faith under paragraph 4(b)(iv) of the Policy. Moreover, the Panel considers that the Respondent also tarnishes the Complainant's trademarks by using them in the disputed domain name which directs Internet users to a website offering commercial gambling services (see also prior decisions under the Policy such as *Sbarro Franchise Co. LLC v. xiao ming chen, chenxiao ming*, WIPO Case No. [D2022-0550](#)).

The Panel 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 <koriansa.com> be transferred to the Complainant.

*/Deanna Wong Wai Man/*

**Deanna Wong Wai Man**

Sole Panelist

Date: May 19, 2025