

## **ADMINISTRATIVE PANEL DECISION**

Korian v. Nawaf Hariri, Salla  
Case No. D2022-1641

### **1. The Parties**

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

The Respondent is Nawaf Hariri, Salla, Saudi Arabia.

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

The disputed domain name <korianclinic.com> (the “Domain Name”) is registered with Name.com, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 9, 2022. On May 10, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On May 11, 2022, 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 sent an email communication to the Complainant on May 16, 2022, 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 on May 19, 2022.

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 of the Complaint, and the proceedings commenced on June 16, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 6, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 15, 2022.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on July 22, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required to ensure compliance with the Rules, paragraph 7.

#### 4. Factual Background

The Complainant provides care services, 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 was established in 2003. Through its services, the Complainant serves today more than 300,000 patients or residents and employs more than 50,000 people in Europe.

The Complainant holds trademark registrations in different jurisdictions, such as European Union ("EU") trademark registration number 005192224 registered on August 29, 2007, EU trademark registration number 014683981 filed on October 15, 2015 and registered on June 2, 2016 and International Trademark registration number 1327848 registered on August 4, 2016.

The Complainant has also registered different domain names, such as <korian.com> in 1999, <korian.fr> in 2008, and <korian.eu> in 2009.

The Domain Name was registered on December 25, 2021. The Domain Name resolves to a webpage that appears to be under construction.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant argues its trademark KORIAN is well known and widely used in France and abroad. The Complainant submits that the Domain Name is confusingly similar to the Complainant's trademark, as it reproduces the trademark with the sole addition of the word "clinic", which is related to the Complainant's field of activity.

The Complainant asserts that the Respondent is not authorized to use the Complainant's trademark. The Respondent is not in any way related to the Complainant's business, is not one of its distributors and does not carry out any activity for nor has any business with it. The Respondent is not commonly known by the Domain Name. The Complainant submits that the Respondent has not made any use of, or demonstrable preparations to use, the Domain Name in connection a *bona fide* offering of goods or services. On the contrary, it is highly likely that the Respondent knew about the existence of the Complainant's prior intellectual property rights at the time the Domain Name was registered, and any use of the Domain Name is therefore in bad faith.

The Complainant submits that the Respondent must have been aware of the Complainant and its rights at the time the Domain Name was registered. The mere absence of rights or legitimate interests of the Respondent underlines that the Domain Name has been registered and used in bad faith. The Respondent has registered the Domain Name having the Complainant's trademarks, company names and domain names in mind. The Complainant asserts that the Respondent has engaged in a pattern of trademark-abusive domain name registrations, as shown by prior UDRP decisions, see *Les Parfumeries Fragonard v. Nawaf Hariri, Salla*, WIPO Case No. [D2022-0192](#); *Les Parfumeries Fragonard v. Nawaf Hariri, Salla*, WIPO Case No. [D2021-2454](#); *Philip Morris Products S.A. v. Salla, Heet not Burn / Nawaf Hariri, Salla*, WIPO Case No. [D2020-1812](#). The fact that the Domain Name redirects to a webpage allegedly under construction, does not prevent a bad faith finding, as the Complainant's trademark is well known and the Respondent has not offered any explanation or evidence of any actual or contemplated good faith use.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **A. Identical or Confusingly Similar**

The Complainant has established that it has rights in the trademark KORIAN. The test for confusing similarity involves a comparison between the trademark and the Domain Name. The Domain Name incorporates the Complainant's trademark, with the addition of "clinic". The addition does not prevent a finding of confusing similarity between the Domain Name and the Complainant's trademark, as the trademark remains recognizable in the Domain Name. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8.

For the purpose of assessing under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domain ("gTLD"), see [WIPO Overview 3.0](#), section 1.11.1.

The Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

### **B. Rights or Legitimate Interests**

As stated in [WIPO Overview 3.0](#), section 2.1, "while 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 often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element".

The Complainant has made unrebutted assertions that it has not granted any authorization to the Respondent to register a domain name containing the Complainant's trademark or otherwise make use of the Complainant's mark. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired unregistered trademark rights. The Respondent has not documented any use of, or demonstrable preparations to use, the Domain Name in connection with a *bona fide* offering. Moreover, the nature of the Domain Name itself carries a risk of implied affiliation, which is reinforced by the inclusion in the Domain Name of the term "clinic" that relates to the Complainant's line of business. See section 2.5.1 of the [WIPO Overview 3.0](#).

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name in accordance with paragraph 4(a)(ii) of the Policy.

### **C. Registered and Used in Bad Faith**

Based on the fame of the Complainant's trademark and the composition of the Domain Name, and above all the lack of explanation from the Respondent, the Panel finds it likely that the Respondent was aware of the Complainant and its trademark when the Respondent registered the Domain Name.

The fact that the Domain Name redirects to a webpage allegedly under construction, does not prevent a bad faith finding, as the Complainant's trademark is well known and the Respondent has not offered any explanation or evidence of any actual or contemplated good faith use.

For the reasons set out above, the Panel concludes that the Domain Name was registered and is being used in bad faith, within the meaning of paragraph 4(a)(iii) 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 Domain Name <korianclinic.com> be transferred to the Complainant.

*/Mathias Lilleengen/*

**Mathias Lilleengen**

Sole Panelist

Date: August 5, 2022