

IN THE MATTER OF  
A Complaint pursuant to the Canadian Internet Registration Authority (**CIRA**)  
Dispute Resolution Policy (**the Policy**) and  
Domain Name Dispute Resolution Rules (**the Rules**).

File Number: DCA-2185-CIRA

Domain Name: galanz.ca

Complainant: Guangdong Galanz Enterprises Co., Ltd.

Registrant: Hongtao Situ

Registrar: Go Daddy Domains Canada, Inc.

Sole Arbitrator: Michael Erdle

Service Provider: British Columbia International Commercial Arbitration Centre  
(BCICAC)

**DECISION**

**Claim and Procedure**

On January 15, 2020, the Complainant filed a complaint against the Registrant with the BCICAC, with respect to the registration of <galanz.ca> (the “Domain Name”).

The BCICAC confirmed the Complainant was in administrative compliance with the CDRP and the Rules and forwarded a copy of the complaint to the Registrant on January 20, 2020.

The Registrant did not respond to the BCICAC with respect to the complaint within the time required under the Rules.

Accordingly, under Rule 6.5, the Complainant was permitted to elect to convert from a three-person tribunal to a single arbitrator.

I was appointed as sole arbitrator by BCICAC on February 28, 2020.

**Factual Background**

In accordance with Rule 5.8, having received no response to the complaint from the Registrant, I shall decide the complaint based on the information provided in the Complaint and accompanying materials, as set out in this award.

The Complainant is a Chinese manufacturer of home appliances. It has manufactured a range of appliances and cooking products since 1978. It says it is the largest manufacturer of microwave ovens in the world. It markets and sells its products in Canada.

The Complainant operates its own website in connection with its business at <www.galanz.com>.

The Complainant is the owner of two registered trademarks in Canada, for GALANZ and design, each in association with a range of home appliances (the “Marks”).

- TMA903489, registered November 25, 1997 (renewed in 2012), and
- TMA486177, registered May 12, 2015

The Domain Name was registered with Go Daddy Domains Canada, Inc. on February 5, 2011.

Based on CIRA’s response to a Request for Disclosure of Registrant Information, the Registrant was identified as an individual by the name of Hongtao Situ, with an address of 50 Telson Rd, Markham, ON, L3R 1E5.

The Claimant, based on information provided by CIRA, alleges that the Registrant has registered one-hundred and nine (109) “.ca” domain names. Many of the Registrant’s domain name registrations appear to incorporate trademarks and trade names of others.

The Claimant also identified the Registrant as the sole director of a corporation, Homevision Technology, Inc. (“Homevision”), which operates under a variety of trade names selling many products similar to those of the Complainant. The Registrant through this company, operates several websites which sell identical or similar goods.

The Registrant did not submit any evidence in response to the Complaint.

### **Requested Remedy**

The Complainant requests that the Panel order that the Domain Name be transferred to the Complainant.

### **Eligibility**

The Complainant satisfies CIRA’s eligibility requirements, pursuant to paragraph 1.4 of the Policy, because the Marks are registered with the Canadian Intellectual Property Office and it is the owner of the Marks.

### **Reasons for Award**

Under the Policy, the onus is on the Complainant to prove on a balance of probabilities that the domain name is confusingly similar to Complainant’s trademark, that the Complainant has rights in the mark, and that it has been registered in bad faith.

The Complainant must also provide “some evidence” that the Registrant has no legitimate interest in the disputed domain name.

#### ***1. Confusingly Similar & Rights in the Trade-mark***

The Complainant’s “GALANZ” and design trademark was first registered in 1997, long before the Registrant registered the Domain in 2011. The Complainant continues to use and have rights

in the Mark, and renewed the registration in 2012. The Complainant obtained an additional registration, for a further range of appliances, in 2015.

Under Paragraph 3.3 of the Policy, a domain name is “Confusingly Similar” to a Mark if the “domain name so nearly resembles the Mark in appearance, sound or the ideas suggested by the Mark as to be likely to be mistaken for the Mark”. In assessing whether a domain name is “Confusingly Similar”, the Panel shall only consider the appearance, sound, or idea suggested and not have regard to other factors. The “domain name”, for the purposes of the Policy, means the domain name excluding the dot-ca suffix.

The Domain Name is identical to the word element of the Complainant’s Marks. That is sufficient to establish that it is confusingly similar.

Based on the foregoing, I find that the Complainant has rights in the Marks and that the Domain Name is confusingly similar to the Marks.

## ***2. Registration in Bad Faith***

The Complainant submits that the Registrant registered the Domain Name in bad faith in an attempt to prevent the Complainant from registering its Marks as a domain name and that the Registrant has engaged in a pattern of registering domains in a similar manner.

The Complainant also submits that the Registrant is a competitor of the Complainant and registered the Domain Name primarily for the purpose of disrupting the Complainant’s business.

Both of these are evidence of registration in bad faith under Paragraph 3.5 of the Policy.

The Complainant states that, at the time the Domain Name was registered, the Registrant was aware - or ought to have been aware - of the Complainant’s rights in the “GALANZ” trademark, both through the Complainant’s trademark registration and its widespread use of the trademark in throughout Canada for many years.

The Complainant argues that the Registrant is knowledgeable regarding home appliance, electronics, and technology manufacturers from China, because the Registrant operates several businesses in this field. It also argues that the Registrant has undertaken a strategy of registering the trademarks of third party competitor home appliance, electronics, and technology manufacturers as domain names. It says the Registrant is not acting in “good faith”.

The Complainant states that:

[T]he Respondent plainly registered and maintained the Domain to prevent the Complainant from registering their GALANZ Trademark as a .ca domain name, as demonstrated by the Registrant’s engagement in a pattern of registering domain names consisting of third-party trademarks. In *Yamaha Corp. v. Yoon*, (2007) CIRA Dispute No. 00089, the Panel held that a registrant owning as few as two domain names containing registered trademarks of third parties may be relied upon as demonstrating a pattern of cybersquatting. In the present

instance, the Registrant appears to own at least thirty-four (34) domain names which infringe upon the registered trademark rights of another entity in Canada.

Not only does the Registrant own numerous domain names containing registered trademarks of third parties, the domain names owned by the Registrant tend to be for the same type of business, namely, manufacturers of home appliances, electronics and technology based in China.

Such an extensive portfolio of domain name registrations incorporating the marks of third parties, particularly when restricted to a single field, clearly indicates that the Respondent is a cyber-squatter, and satisfies the test of a "pattern" of registering domain names in order to prevent persons who have rights in corresponding marks from registering the marks as domain names, as contemplated by the Policy.

*AOL Canada Inc. v. Anderson and Grouse*, 2010, DCA-1246-CIRA, at para. 19

The Claimant's allegations of bad faith are also supported by the fact that the Domain Name does not appear to have been used for any purpose other than to link to websites selling microwave ovens and other products and services which compete with those of the Complainant.

Based on the evidence and submissions of the Claimant, and in the absence of any evidence to the contrary from the Registrant, I find on a balance of probabilities that the Registrant registered the Domain Name in bad faith.

### **3. Legitimate Interest**

The Policy requires that the Complainant must provide "some evidence" that the Registrant has no Legitimate Interest in the Domain Name.

The Complainant's burden of proof regarding the Registrant's lack of legitimate interest is relatively low. It is not required to prove conclusively, or even on a balance of probabilities, that the Registrant has no legitimate interest. It must simply provide "some evidence". The onus is then on the Registrant to show that it does have a legitimate interest.

Paragraph 3.4 of the Policy provides a non-exhaustive list of instances when a registrant can establish a "Legitimate Interest" in a domain name. From the evidence submitted, it does not appear that the Registrant meets any of these criteria.

In particular, the Registrant is not known by the name "Galanz" and has no rights in any such business name or trademark. It has not registered or used the Domain Name in good faith in association with any product, service or business, or in connection with any legitimate non-commercial activity. The word "galanz" is not clearly descriptive of any product or service in any language.

When the complaint was filed, the Domain Name was not associated with an active website. It produced a generic error message. Previously it had a holding page with a message in Chinese characters stating that a website was coming soon.

As of the date of this Award, the Domain Name resolved to a web page with links to a number of sites selling microwave ovens and other products and services which compete with those of the Complainant. This is not a legitimate interest or good faith use of the domain.

I find that the Complainant has satisfied the requirement of showing some evidence that the Registrant has no legitimate interest in the Domain Name.

The Registrant has not responded to the Complaint and had provided no evidence that it does have a legitimate interest in the Domain.

### **Decision and Order**

Based on the uncontested evidence of the Complainant, including the facts and arguments in the Complaint and supporting documents, I find that the Complainant has satisfied the requirements and burden of proof in the Policy and the Rules.

I find that:

- the Claimant has rights in the Marks;
- the Domain Name is confusingly similar to the Marks;
- the Registrant has registered the Domain Name in bad faith; and
- the Registrant has no legitimate interest in the Domain Name.

I hereby order and direct that the registration of the Domain Name be transferred from the Registrant to the Complainant.

Dated at Toronto, Ontario, this 6<sup>th</sup> day of March, 2020.

A handwritten signature in black ink, appearing to read "Michael Erdle", with a horizontal line extending to the right from the end of the signature.

Michael Erdle,  
C.Arb; FCI Arb.