

ADMINISTRATIVE PANEL DECISION

Corning Incorporated v. Human Resources Case No. D2022-3057

1. The Parties

The Complainant is Corning Incorporated, United States of America (“United States”), represented by Gowling WLG (Canada) LLP, Canada.

The Respondent is Human Resources, United States.

2. The Domain Name and Registrar

The disputed domain name <corningincorporatedhr.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 18, 2022. On August 19, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 20, 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 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 August 30, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 19, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 23, 2022.

The Center appointed Clark W. Lackert as the sole panelist in this matter on October 6, 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 by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is one of the world's leading innovators in materials science, particularly with glass, founded in the 1850's with a long track record of inventions including glass light bulbs from Thomas Edison, heat resistant cookware glass Pyrex, mirrors for telescopes including the Hale Telescope at Mt. Palomar in San Diego, California, parts of the first television displayed at the 1939 New York World's Fair, and now for spacecraft and biotech uses. The Complainant applies its expertise in glass science, ceramic science, and optical physics along with its deep manufacturing and engineering capabilities to develop category-defining products that transform industries and enhance people's lives. In 2018 alone, the Complainant generated USD 11 billion in revenue, and over USD 30 billion between 2016 and 2018. The Complainant operates a website at "www.corning.com", and uses and registered its trademark CORNING around the world.

The Complainant is the owner of over 325 trademark registrations worldwide for trademarks comprised of, or containing the word CORNING (the "CORNING Trademarks"), including trademark registrations in the United States (Registration Nos. 618649, registered on January 3, 1956, 918421, registered on August 17, 1971, 1682729, registered on April 14, 1992, and 1748228, registered on January 26, 1993), the European Union (Registration No. 016966822, registered on November 6, 2017), Canada (Registration Nos. TMA186211, registered on October 20, 1972, TMA240498, registered on March 7, 1980, and TMA195587, registered on November 23, 1973), and Australia (Registration Nos. 130805, registered on January 29, 1957, and 130807, registered on January 29, 1957), all of which have been duly renewed. Due to long and widespread use, publicity, and registration, the CORNING Trademarks enjoys widespread recognition and fame.

The disputed domain name was registered on August 2, 2022, which used the same street address as the Complainant in its registration.

5. Parties' Contentions

A. Complainant

Concerning confusing similarity, the Complainant is the registered owner of the CORNING Trademarks in various countries. By virtue of these registrations, and its common law rights by use, the Complainant has rights in the CORNING Trademarks, and continues to have such rights. It is a well-established principle that the addition of a generic Top-Level Domain, such as ".com" is without legal significance in determining the issue of similarity (*Research in Motion Limited v. International Domain Names Inc. / Moniker Privacy Services*, WIPO Case No. [D2008-0780](#)). A respondent may not avoid confusion by appropriating another's entire mark in a domain name (*Research In Motion Limited v. One Star Global LLC*, WIPO Case No. [D2008-1752](#)). It is also a well-established principle that the addition of descriptive or non-distinctive terms to a domain name does not militate against a finding of confusion (*Research in Motion Limited v. Louis Espinoza*, WIPO Case No. [D2008-0759](#); *Research in Motion Limited v. Jumpline.com*, WIPO Case No. [D2008-0758](#); *Dimplex (UK) Limited v. Domains by Proxy, Inc. and Nigel Corry*, WIPO Case No. [D2009-0936](#); *Research in Motion Limited v. One Star Global LLC*, WIPO Case No. [D2009-0227](#); *Research in Motion Limited v. WG/Shahbaz Khan*, WIPO Case No. [D2008-0165](#); and *Quixtar Investments, Inc. v. Dennis Hoffman*, WIPO Case No. [D2000-0253](#)) In the instant case, the disputed domain name incorporates the whole of the famous CORNING trademark and adds the term "incorporatedhr", which would indicate a "corporation" and "hr" for "human resources". The disputed domain name, therefore, would falsely indicate to the public that the disputed domain name emanates from the Human Resources department of the Complainant.

Concerning rights or legitimate interests, it is a well-established principle that an unauthorized party cannot claim a legitimate interest in a domain name that contains, or is confusing with, a complainant's mark, as the activities of such a party cannot be said to constitute a *bona fide* offering of goods or services (*Dr. Ing. h.c. F. Porsche AG v. ANC Online Avrasya Bilisim Tekn San ve Dis Tic A S*, WIPO Case No. [D2006-0912](#)). Use which intentionally trades on the notoriety of another cannot constitute a *bona fide* offering of goods or services, and to conclude otherwise would mean that a respondent could rely on intentional infringement to

demonstrate a legitimate interest, an interpretation which is obviously contrary to the Policy (*Chanel, Inc. v. Cologne Zone*, WIPO Case No. [D2000-1809](#); and *Pfizer Inc. v. Enamecorp.com*, WIPO Case No. [D2001-0791](#)). Impersonating a complainant by using a disputed domain name as part of an email address in the furtherance of a fraudulent scheme constitutes *prima facie* evidence of no rights (*TVS Motor Company Limited v. Vistaprint Technologies Limited*, WIPO Case No. [DCO2014-0007](#); *Roper Industries, Inc. v. VistaPrint Technologies Ltd.*, WIPO Case No. [D2014-1828](#); *Tetra Laval Holdings & Finance S.A. v. VistaPrint Technologies Ltd*, WIPO Case No. [D2014-1387](#); and *Vifor (International) Ltd. v. Glenn Freeman*, WIPO Case No. [D2014-2065](#)). There is no evidence to suggest that the Respondent has ever used, or demonstrated preparations to use, the disputed domain name, or a name corresponding to same, in connection with a *bona fide* offering of goods or services. There has never been any relationship between the Complainant and the Respondent. The Respondent is not licensed, or otherwise authorized, be it directly or indirectly, to register or use, the CORNING Trademarks in any manner whatsoever, including in, or as part of, a domain name. The Respondent registered the disputed domain name as part of a fraudulent scheme to unlawfully extract money from unsuspecting third parties believing the Respondent to be the Complainant. Using the disputed domain name as part of an email address that is virtually identical to that of the Complainant creates the false impression that the email was sent by the Complainant, when in fact it was not. The Respondent's activities may accurately be described as insidious, fraudulent and completely undermine any claim of rights.

Concerning bad faith, the Respondent has been illegally masquerading as the Complainant by advertising jobs and requesting interested parties to reply to the email address identified with the term "info" and "[...].@corningincorporatedhr.com". These parties then provide their sensitive financial information to the Respondent. The Respondent has also incorporated the Complainant's mailing address in the Whois information and also signs its email addresses with "Corning Incorporated" followed by the Complainant's mailing address. It is a well-established principle that using a disputed domain name as an email address to impersonate a complainant in the furtherance of a fraudulent scheme is evidence of bad faith (*TVS Motor Company Limited v. Vistaprint Technologies Limited, supra*; *Roper Industries, Inc. v. VistaPrint Technologies Ltd., supra*; *Tetra Laval Holdings & Finance S.A. v. VistaPrint Technologies Ltd, supra*; *Vifor (International) Ltd. v. Glenn Freeman, supra*; and *Daniel Jesus Chavez Moran, Desarrollo Marina Vallarta, S.A. DE C.V. v. Registrant of grupovidantamembers.com, C/O Private Ranger Limited / Hector Rangel*, WIPO Case No. [D2014-1857](#)).

The Respondent's use of the email address "[...].@corningincorporatedhr.com" in the furtherance of a fraudulent scheme constitutes evidence of bad faith. Additionally, bad faith registration will be found where a respondent is using a domain name to intentionally attempt to attract, for commercial gain, Internet users to a website by creating a likelihood of confusion with a complainant's mark as to source, sponsorship, affiliation, or endorsement. It is a well-established principle that it is not necessary for a disputed domain name to be associated with an active website for a finding of bad faith to be made under paragraph 4(b)(iv). UDRP panels have held that this bad faith requirement is met by a domain name that, if ever put to use, would ultimately result in consumer confusion (*CBS Broadcasting, Inc. v. LA-Twilight-Zone*, WIPO Case No. [D2000-0397](#); and *SSL International PLC v. Mark Freeman*, WIPO Case No. [D2000-1080](#)). Even where the domain name has not been used to identify a web site, panels have held that the Policy 'use in bad faith' requirement is met by registering a domain name that will ultimately result in consumer confusion. See e.g. *CBS Broadcasting, Inc. v. LA-Twilight-Zone, supra*.

B. Respondent

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

6. Discussion and Findings

The Panel has reviewed the Complaint, all supporting evidence, and the proceeding history as set forth in the record. The Panel notes that no response has been filed in this proceeding and that the record supports a decision in the Complainant's favor.

A. Identical or Confusingly Similar

It is well-established that the addition of terms such as “incorporated” or “hr” to a disputed domain name does not prevent a finding of confusing similarity. See, e.g., *F5 Networks, Inc. v. Dennis Brooks*, WIPO Case No. [D2016-2476](#), concerning the domain name <f5-incorporated.com> wherein the term “incorporated” was discounted for analyzing confusing similarity. Concerning the term “hr”, the panel in *Suncor Energy Inc. v. Domain Administrator*, See *PrivacyGuardian.org / roder sun*, WIPO Case No. [D2019-0881](#), concerning the domain name <hr-suncor.com> held that: “the letters ‘hr’ are typically used as abbreviation for ‘human resources’”. The addition of the letters “hr” and a hyphen do not avoid a finding of confusing similarity between the disputed domain name and the Complainant’s registered trademark SUNCOR.” Also, see, e.g., *ASOS Plc et al. v. 刘兵 (liu bing)*, WIPO Case No. [D2022-0604](#) (transferring the domain name <missselfridgeshop.com> noting that “[t]he term ‘shop’ is merely a descriptive term and thus does not prevent a finding of confusing similarity” with complainant’s MISS SELFRIDGE trademark); *Skorpio Limited v. 李怀寿*, WIPO Case No. [D2022-0538](#) (transferring the domain name <therickowensshop.com> where the added term “shop” does not prevent a finding of confusing similarity). In WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.8, the issue is described as: “Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The nature of such additional term(s) may however bear on assessment of the second and third elements.” In the instant case, the disputed domain name using the Complainant’s trademark CORNING in its entirety, coupled with a few additional terms, is confusingly similar to the Complainant’s CORNING Trademarks.

The Panelist finds that the requirements of paragraph 4(a)(i) of the Policy have been satisfied.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(a)(ii) of the Policy, the Complainant is required to make out a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. Once such a *prima facie* case is made, the Respondent carries the burden of production of demonstrating its rights or legitimate interests in the disputed domain name, with the burden of proof always remaining on the Complainant. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy. See [WIPO Overview 3.0](#), section 2.1.

The Complainant has made out a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not submitted a response to the Complaint to rebut this *prima facie* case.

The record does contain any other evidence to indicate that the Respondent would have any rights or legitimate interests in using the Complainant’s CORNING trademark in the disputed domain name.

The Panel therefore finds that the requirements of paragraph 4(a)(ii) of the Policy have been satisfied.

C. Registered and Used in Bad Faith

The illegal and fraudulent use of a spoofed domain name to mislead consumers into believing that respondent was sponsored by or connected with complainant is *prima facie* evidence of bad faith use and registration. See, e.g., *Ropes & Gray LLP v. Onso Onso*, WIPO Case No. [D2019-0823](#), concerning the domain name <ropegrays.com>. As the panel stated: “Moreover, the use of the domain name to illegally spoof and phish existing clients of the Complainant into believing that they are authorized to receive funds on behalf of client is a violation of Policy, paragraph 4(b)(iv). *Caffitaly System S.p.A. v. WhoisGuard Protected, WhoisGuard, Inc. / Organization: Winsomgroup, Robert Hills*, WIPO Case No. [D2018-2804](#), and [WIPO Overview 3.0](#), Section 3.1.4. As the Panel stated therein: ‘Complainant provided evidence that the disputed domain name <caffitaly.com> was used to create fraudulent email addresses, which were then used the very same day the disputed domain name was registered to commit fraud, in an attempt to have one of

Complainant's clients transfer money into a foreign bank account. In accordance with section 3.1.4 of [WIPO Overview 3.0](#), the use of a domain name for fraudulent activities is considered evidence of bad faith." The situation in this case is made worse by the Respondent using the same street address as the Complainant to increase confusion as to whether the Respondent is the Human Resources department of the Complainant.

Moreover, the registration of a domain name that copies a widely known mark indicates an intent to target that mark to promote misdirection of Internet traffic, evidence of bad faith. See, e.g., *The Dow Chemical Company v. dowchemical eva_hwang@21cn.com +86.7508126859*, WIPO Case No. [D2008-1078](#) (finding <dowaychemical.com> registered in bad faith in view of the "widely known trademarks" of the complainant); see also *IDR Solutions Ltd. v. Whois Privacy Corp*, WIPO Case No. [D2016-2156](#) (evidence of third party recognition of complainant's JPEDAL mark supported conclusion that <jpedal.org> was registered in bad faith). As [WIPO Overview 3.0](#), section 3.1.4 states: "Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith."

The Panelist finds that the requirements of paragraph 4(a)(iii) of the Policy have been satisfied.

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, <corningincorporatedhr.com>, be transferred to the Complainant.

/Clark W. Lackert/

Clark W. Lackert

Sole Panelist

Date: October 20, 2022