

ADMINISTRATIVE PANEL DECISION

Corning Incorporated v. Hulie john
Case No. D2023-3637

1. The Parties

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

The Respondent is Hulie John, India.

2. The Domain Name and Registrar

The disputed domain name <corning-inc.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 29, 2023. On August 30, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 31, 2023, 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 (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 4, 2023, 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 amendment to the Complaint on September 13, 2023.

The Center verified that the Complaint together with the amendment to 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 September 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 4, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 5, 2023.

The Center appointed Andrea Jaeger-Lenz as the sole panelist in this matter on November 3, 2023. 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 a company publicly traded at the New York Stock Exchange and active in materials science manufacturing and engineering, with a more than 165 year history. Its global headquarters are located in the United States.

The Complainant is the owner of the brand CORNING, which is protected by a large portfolio of over 325 trademarks registered in many jurisdictions around the world, including but not limited to the following registrations (Exhibit 3 to the Complaint):

- United States trademark registration No. 618649 CORNING, registered on January 3, 1956.
- European Union trademark registration No. 016966822 CORNING, registered on November 6, 2017.
- Canadian trademark registration No. TMA186211 CORNING, registered on October 20, 1972.
- Chinese trademark registration No. 576489 CORNING, registered on December 20, 1991.

The Complainant operates a website at <corning.com> (Exhibit 2 to the Complaint).

The disputed domain name <corning-inc.com> was registered on July 18, 2023, and resolves to the Registrar's parking page with no substantive content (Exhibit 5 to the complaint). In addition to the parking website, the Respondent has also registered the email address "comingincorporated@[...]"

5. Parties' Contentions

A. Complainant

The Complainant contends that all three requirements stated in paragraph 4(a) of the Policy are met in the present case.

According to the Complainant, it was established more than 165 years ago and is one of the world's leading innovators in materials science (Exhibit 2 to the Complaint). In 2018 alone, the Complainant generated USD 11.29 billion in revenue, and over USD 30 billion altogether between 2016 and 2018 (Exhibit 1 to the Complaint).

The Complainant claims that the CORNING trademarks enjoy widespread recognition, have generated significant goodwill and have become famous. In fact, in *Corning Incorporated v. Chen Jie Huan*, WIPO Case No. [D2022-3137](#), the notoriety of the Complainant's CORNING mark has recently been confirmed.

The Complainant argues that the disputed domain name is confusingly similar to its famous CORNING mark as the disputed domain name wholly incorporates the CORNING mark in its entirety in addition to the term "inc". It contends that the addition of the term "inc" does nothing to diminish confusion, but rather enhances confusion given that the Complainant is an incorporated company.

The Complainant further contends that the Respondent – as an unauthorized party – has no rights or legitimate interests in respect to the disputed domain name. There was 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.

The Complainant further argues that the disputed domain name was registered and is being used in bad faith in an attempt to intentionally attract, for commercial gain, Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's CORNING mark, and that the Respondent had actual knowledge of the Complainant's CORNING trademarks at the time of registration.

B. Respondent

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

6. Discussion and Findings

Pursuant to paragraph 4 (a) of the Policy, the Complainant must prove that each of the following three elements is present:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

In the following, the Panel will discuss in consecutive order whether each of these requirements are met.

A. Identical or Confusingly similar

On the first element, the test of identity or confusing similarity under the Policy, paragraph 4(a)(i) is limited in scope to a direct comparison between the Complainant's trademark and the textual string which comprises the disputed domain name.

In this case, the Complainant has provided evidence that it owns registered trademark rights in the denomination CORNING (Exhibit 3 to the Complaint). The Panel agrees that the disputed domain name contains the trademark CORNING in its entirety. The addition of the term "inc" does not prevent a finding of confusing similarity between the disputed domain name and the trademark in which the Complainant has rights, as the Complainant's trademark is identically reproduced in the disputed domain name. If the relevant mark is recognizable in the disputed domain name, the addition of other terms will not prevent a finding of confusing similarity under the first element (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8; see *Fashion Nova v. Blue Face*, WIPO Case No. [D2022-1581](#)).

Moreover, the generic Top-Level Domain ("gTLD") ".com" does not affect the confusing similarity in any way due to the fact that a gTLD is viewed as a standard registration requirement and, thus, usually not taken into consideration under the first element analysis. For the purposes of assessing identity or confusing similarity under paragraph 4(a)(i) of the Policy, it is therefore permissible for the Panel to ignore the gTLD (section 1.11 of the [WIPO Overview 3.0](#), see also *Rexel Developpements SAS v. Zhan Yequn*, WIPO Case No. [D2017-0275](#); *G4S Plc v. Noman Burki*, WIPO Case No. [D2016-1383](#); *SAP SE v. Mohammed Aziz Sheikh, Sapteq Global Consulting Services*, WIPO Case No. [D2015-0565](#)). Thus, the Panel shall disregard the ".com" gTLD in the disputed domain name.

Based on the above, the Panel finds that the disputed domain name is confusingly similar to the Complainant's CORNING mark within the meaning of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

On the second element, under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

However, it is consistent view of UDRP panels that it is sufficient for a complainant to make a *prima facie* case showing that the respondent has no rights or legitimate interests in a disputed domain name in order to place the burden of production on the respondent (see, e.g., *Credit Agricole S.A. v. Dick Weisz*, WIPO Case No. [D2010-1683](#); *Champion Innovations, Ltd. v. Udo Dussling (45FHH)*, WIPO Case No. [D2005-1094](#); *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#); *Belupo d.d. v. WACHEM d.o.o.*, WIPO Case No. [D2004-0110](#)).

The Panel notes that, with respect to paragraph 4(c)(i) of the Policy, there is no evidence in the record that the Respondent, before any notice of the dispute, used or prepared to use the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services.

The Panel further notes that with respect to paragraph 4(c)(ii) of the Policy, there is no evidence that indicates that the Respondent has ever been commonly known by the disputed domain name or has acquired trademark rights in a name corresponding to the disputed domain name.

Additionally, with respect to paragraph 4(c)(iii) of the Policy, there is no evidence that the Respondent has made, and is making, a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark at issue.

On the contrary, the Complainant has not authorized, licensed or permitted in any way the Respondent to register or use the disputed domain name. This finding is supported by the fact that the Respondent failed to file a response within the proceedings before the Panel. As far as failure to file a response is concerned, it is still for a complainant to prove its case. But where allegations such as those levied by the Complainant in the Complaint are being made, one would expect a respondent to positively deny those allegations (see *The Commissioners for HM Revenue and Customs v. Tyrone Jackson*, WIPO Case No. [D2018-0298](#)).

In addition, the Panel notes that the addition of the term "inc" in the disputed domain name actually implies a risk of confusion since the Complainant is an incorporated company and "inc" will easily be understood as an abbreviation for "incorporation".

Consequently, the Panel finds that the Respondent has failed to refute the *prima facie* case made by the Complainant. Therefore, the Complainant has established the Respondent's lack of rights or legitimate interests in the disputed domain name pursuant to paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

On the third element, under paragraph 4(a)(iii) of the Policy, a complainant has to establish that the disputed domain name has been registered and is being used in bad faith by the respondent.

The Complainant's rights in the trademark CORNING predate the Respondent's registration of the disputed domain name, which was registered on July 18, 2023, by far. Based on the evidence provided by the Complainant regarding the longstanding and global use and claimed reputation of its CORNING trademarks, and the absence of any evidence to the contrary on the part of the Respondent, the Panel agrees with the Complainant that it is inconceivable that the Respondent had not been aware of the Complainant's trademarks at the time of registration of the disputed domain name.

The disputed domain name incorporates the Complainant's CORNING mark in its entirety with an additional word "inc", which the Panel finds is an attempt by the Respondent to confuse and/or mislead Internet users seeking or expecting the Complainant. Previous UDRP panels have ruled that in such circumstances "a likelihood of confusion is presumed, and such confusion will inevitably result in the diversion of Internet traffic from the Complainant's site to the Respondent's site" (see *Corning Incorporated v. Chen Jie Huan*, WIPO Case No. [D2022-3137](#); *Edmunds.com, Inc v. Triple E Holdings Limited*, WIPO Case No. [D2006-1095](#)).

The disputed domain name is being passively held by the Respondent as it resolves to the Registrar's parking page without any substantive content. UDRP panelists 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. While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put (see [WIPO Overview 3.0](#), section 3.3).

Having regard to the above factors, namely the alleged and undisputed reputation of the Complainant's CORNING mark (confirmed by *Corning Incorporated v. Chen Jie Huan*, WIPO Case no. [D2022-3137](#)) and the Respondent's failure to submit a Response or to provide any evidence of actual or contemplated good-faith use, the Panel finds that the passive holding of the disputed domain name does not prevent a finding of bad faith.

In addition, the circumstance that the Respondent has also registered the email address "corningincorporated@[...]" further supports a finding of bad faith, as pointed out by the Complainant, as the Respondent has attempted to impersonate the Complainant with this email address. Indeed, it seems likely that the disputed domain name as well as the similarly built email address may be intended for spamming or phishing activities impersonating the Complainant.

Furthermore, the fact that the Respondent has not participated in these proceedings and leaves the Complainant's allegations unrebutted, supports a finding that the disputed domain name was registered and is being used in bad faith (see also *Confederation Nationale du Credit Mutuel v. WhoisGuard Protected, WhoisGuard, Inc, / Jean Duca*, WIPO Case No. [D2021-0977](#); *TTT Moneycorp Limited v. Diverse Communications*, WIPO Case No. [D2001-0725](#); *The Commissioners for HM Revenue and Customs v. Calvon Bonsu*, WIPO Case No. [D2020-1075](#)).

In light of the above, the Panel holds that the Respondent has registered and is using the disputed domain name in bad faith. The Complainant has thus satisfied the third element of paragraph 4(a) 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 <corning-inc.com> be transferred to the Complainant.

/Andrea Jaeger-Lenz/

Andrea Jaeger-Lenz

Sole Panelist

Date: November 17, 2023