

## **ADMINISTRATIVE PANEL DECISION**

Corning Incorporated v. Jack Bauer  
Case No. D2023-5390

### **1. The Parties**

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

The Respondent is Jack Bauer, U.S.

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

The disputed domain name <corning.com> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 28, 2023. On January 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 2, 2024, 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 January 3, 2024, 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 Complaint on January 10, 2024.

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 January 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 1, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 2, 2024.

The Center appointed Gary Saposnik as the sole panelist in this matter on February 7, 2024. 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 Corning Incorporated is a publicly traded company and, according to the Complainant, one of the world's leading innovators in materials science, with a more than 165-year track record of life-changing inventions, including in glass science, ceramic science, and optical physics, along with deep manufacturing and engineering capabilities to develop category-defining products. The Complainant submitted evidence that in 2018 alone, the Complainant generated USD 11.29 billion in revenue, and over USD 30 billion between 2016 and 2018.

The Complainant is the owner of over 325 trademark registrations worldwide for trademarks comprised of, or containing CORNING, dating back to at least 1956, including the following marks:

- CORNING, U.S. Registration No. 618649, registered January 3, 1956, first used in commerce, October 1878, for goods including glass laboratory equipment, and tableware, kitchenware;
- CORNING, U.S. Registration No. 1682729, registered April 14, 1992, first used in commerce, May 1990, for goods including glass optical fiber in filament or cable form, and fiber optic couplers;
- CORNING, U.S. Registration No. 1748228, registered January 26, 1993, first used in commerce, 1975, for goods including plastic labware.

The Complainant has submitted additional evidence of other CORNING registrations from the U. S. and around the world.

The Complainant operates a corporate website at "www.corning.com". The Complainant did not provide information as to when its website was initially registered, but Whois records indicate that the disputed domain name was created on December 18, 1991, with Wayback Machine records<sup>1</sup> showing use by the Complainant as far back as 1996.

The Respondent registered the disputed domain name <cornirng.com> on November 28, 2023. The Complainant provided a screenshot from December 28, 2023, of the disputed domain name resolving to the Registrar parking page with pay-per-click ("PPC") links unrelated to Complainant's trademarks. The Respondent has been using an email address with the disputed domain name to masquerade as the Complainant and issuing email correspondence to unsuspecting clients of the Complainant directing them to pay fake invoices. The disputed domain name does not currently resolve to any content.

#### **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.

The Complainant contends that Respondent's registration of the disputed domain name is considered as typosquatting, and therefore is confusingly similar to the Complainant's CORNING trademarks. The Complainant contends that the disputed domain name is confusingly similar to the Complainant's registered

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<sup>1</sup> Noting the general powers of a panel articulated inter alia in paragraphs 10 and 12 of the UDRP Rules, panels may undertake limited factual research into matters of public record if they would consider such information useful to assessing the case merits and reaching a decision. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([WIPO Overview 3.0](#)), section 4.8.

CORNING trademarks, containing the whole CORNING trademark, while adding the letter “r”. The Complainant alleges that this is evidence of intent on the part of Respondent to deceive and defraud the Internet users.

The Complainant contends that Respondent is an unauthorized party and cannot claim a legitimate interest in a domain name that contains, or is confusingly similar to the Complainant’s marks, and is not making a bona fide offering of goods or services. Furthermore, the Complainant alleges that engaging in typosquatting activities undermines a claim of legitimate interests or rights. Additionally, the Complainant contends that impersonating the Complainant by using the disputed domain name as part of an email address in the furtherance of a fraudulent scheme is additional prima facie evidence of no rights. The Complainant alleges that there is no evidence that Respondent has been commonly known by the disputed domain name, or that the Respondent is making, or intends to make, a legitimate noncommercial or fair use of the disputed domain name.

As detailed above, the Complainant contends that using the disputed domain name as an email address to impersonate the Complainant in furtherance of a fraudulent scheme is evidence of bad faith use. The Complainant further alleges that the additional letter contained in the disputed domain name is considered as typosquatting, and is itself evidence of bad faith registration. The Complainant alleges that bad faith registration will also 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 the complainant’s mark as to source, sponsorship, affiliation, or endorsement.

Furthermore, the Respondent had actual or constructive knowledge of the Complainant’s rights, as evidenced by the Respondent’s impersonation of the Complainant.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[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 Panel finds the CORNING mark is recognizable 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. Additionally, panels have consistently found that a domain name consisting of a misspelling of the complainant’s trademark (i.e. typosquatting) is considered confusingly similar to the complainant’s mark. [WIPO Overview 3.0](#), section 1.9. As shown by the evidence submitted, the addition of the “r” within the CORNING mark would be considered an instance of typosquatting.

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.

Panels have held that the use of a domain name for illegal activity, here claimed as applicable to this case: phishing, or impersonation/passing off, or other types of fraud can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. The Complainant has submitted unrebutted evidence that the disputed domain name was utilized in an email address to attempt to pass off and impersonate the Complainant to secure payment of funds from unsuspecting clients.

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 registered the disputed domain name many years after the Complainant registered its CORNING marks. The Complainant’s mark had achieved significant use and sales in the U. S. (where the Respondent is apparently located), as well as around the world. Within days of registration, the Respondent then used the disputed domain name within emails attempting to fraudulently obtain funds from unsuspecting clients of the Complainant.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

According to the evidence provided by the Complainant, the disputed domain name resolved to parking page with PPC links. Although the advertisements may be served programmatically by a third party, the Respondent cannot disclaim responsibility for content appearing on the website associated with the disputed domain name. [WIPO Overview 3.0](#), section 3.5.

Furthermore, panels have held that the use of a domain name for illegal activity, as previously noted, for claimed use in an email address for phishing and/or impersonation/passing off to solicit payment of fraudulent invoices by the complainant’s actual or prospective customers constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. *Arla Foods Amba v. Michael Guthrie, M. Guthrie Building Solutions*, WIPO Case No. [D2016-2213](#).

Having reviewed the record, the Panel finds the Respondent’s registration and use of the disputed domain name constitutes bad faith under the Policy.

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 <cornimg.com> be transferred to the Complainant.

*/Gary Saposnik/*

**Gary Saposnik**

Sole Panelist

Date: February 21, 2024