

ADMINISTRATIVE PANEL DECISION

Corning Incorporated v. 陈洁环 (chen jie huan)
Case No. D2022-3137

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 陈洁环 (chen jie huan), China.

2. The Domain Name and Registrar

The disputed domain name <corning-group.com> is registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 25, 2022. On August 25, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 26, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on August 26, 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 amendment to the Complaint on September 2, 2022.

On August 26, 2022, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On September 2, 2022, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

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 in English and in Chinese, and the proceedings commenced on September 9, 2022. In

accordance with the Rules, paragraph 5, the due date for Response was September 29, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 30, 2022.

The Center appointed Jonathan Agmon as the sole panelist in this matter on October 5, 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, Corning Incorporated, is a publicly-traded company and is one of the world's leading innovators in materials science with a track record of more than 165 years of life-changing inventions. The Complainant's expertise includes glass science, ceramic science and optical physics. In 2018, the Complainant generated USD 11.29 billion in revenue, and over USD 30 billion between 2016 and 2018. The Complainant is part of the group of Corning companies.

The Complainant owns numerous trademark registrations for the CORNING trademark in many countries around the world, including in China. It owns the following trademark registrations in the U.S. and China:

- (i) U.S. Trade Mark Registration No. 618,649 for CORNING, registered on January 3, 1956;
- (ii) U.S. Trade Mark Registration No. 918,421 for CORNING, registered on August 17, 1971;
- (iii) U.S. Trade Mark Registration No. 1,682,729 for CORNING, registered on April 14, 1992;
- (iv) U.S. Trade Mark Registration No. 1,748,228 for CORNING, registered on January 26, 1993;
- (v) China Trade Mark Registration No. 576489 for CORNING, registered on December 20, 1991;
- (vi) China Trade Mark Registration No. 3205065 for CORNING, registered on March 14, 2004; and
- (vii) China Trade Mark Registration No. 3205064 for CORNING, registered on October 14, 2003.

The Complainant states that it operates a website at <corning.com>.

The disputed domain name was registered on July 21, 2022, and resolves to an inactive website.

5. Parties' Contentions

A. Complainant

The Complainant argues that the disputed domain name is confusingly similar to its CORNING mark as the disputed domain name wholly incorporates the CORNING mark in its entirety and addition of the word "group". The addition of the word "group" is insufficient to distinguish the disputed domain name from the Complainant's mark. The disputed domain name is therefore confusingly similar to the CORNING mark.

The Complainant also argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name as it is not affiliated with or authorized the Respondent to its trademark or register the disputed domain name and that the Respondent is not commonly known the disputed domain name. There is no evidence to suggest that the Respondent is using the disputed domain name in connection with a *bona fide* offering of goods or services, or in a legitimate noncommercial or fair manner.

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

B. Respondent

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

6. Discussion and Findings

6.1 Preliminary Issue: Language of the Proceeding

Paragraph 11 of the Rules provides that: "(a) Unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding."

The language of the Registration Agreement for the disputed domain name is Chinese.

The Complainant requested that the language of the proceeding be English for the following reasons:

- (i) the disputed domain name is in English; and
- (ii) additional expense and delay would be incurred if the Complaint is translated into Chinese.

The Respondent did not comment on the language of the proceeding.

The Panel cites the following with approval: "Thus, the general rule is that the parties may agree on the language of the administrative proceeding. In the absence of this agreement, the language of the Registration Agreement shall dictate the language of the proceeding. However, the Panel has the discretion to decide otherwise having regard to the circumstances of the case. The Panel's discretion must be exercised judicially in the spirit of fairness and justice to both parties taking into consideration matters such as command of the language, time and costs. It is important that the language finally decided by the Panel for the proceeding is not prejudicial to either one of the parties in his or her abilities to articulate the arguments for the case." (See *Groupe Auchan v. xmxzl*, WIPO Case No. [DCC2006-0004](#)).

Having considered the above factors, the Panel determines that English be the language of the proceeding. The Panel notes that the Respondent has not participated in this proceeding and that all of the Center's communications with the Parties have been sent in English and Chinese. The Panel also needs to ensure the proceeding is conducted in a timely and cost effective manner. In the absence of an objection by the Respondent, the Panel does not find it procedurally efficient to have the Complainant translate the Complaint and evidence into Chinese.

6.2 Substantive Issues

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. The disputed domain name wholly integrates the Complainant's CORNING mark in its entirety, in addition to the word "group". 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. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8. The Complainant's mark in the front of the disputed domain name is clearly the recognizable aspect of the disputed domain name.

Further, it is well established that the addition of the generic Top-Level Domain "gTLD" ".com", as a standard registration requirement, is disregarded under the first element confusing similarity test. See [WIPO Overview 3.0](#), section 1.11.1.

Consequently, the Panel finds that the Complainant has shown that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

Once the complainant establishes a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name, the burden of production shifts to the respondent to show that it has rights or legitimate interests in respect to the disputed domain name (see [WIPO Overview 3.0](#), section 2.1).

In the present case, the Complainant has demonstrated *prima facie* that the Respondent lacks rights or legitimate interests in respect of the disputed domain name and the Respondent has failed to assert any such rights or legitimate interests. The Complainant has provided evidence that it owns a trademark registration for the CORNING mark long before the disputed domain name was registered. The Complainant is not affiliated with nor has it licensed or otherwise permitted the Respondent to use the Complainant's trademark (see *LEGO Juris A/S v. DomainPark Ltd, David Smith, Above.com Domain Privacy, Transure Enterprise Ltd, Host master*, WIPO Case No. [D2010-0138](#)). There is also no evidence on record showing that the Respondent is commonly known by the disputed domain name (see [WIPO Overview 3.0](#), section 2.3).

Further, the Respondent did not submit a Response in the present case and did not provide any explanation or evidence to show rights or legitimate interests in the disputed domain name to rebut the Complainant's *prima facie* case.

The Panel is therefore of the view that the Respondent has no rights or legitimate interests in respect of the disputed domain name and accordingly, paragraph 4(a)(ii) of the Policy is satisfied.

C. Registered and Used in Bad Faith

The complainant must also show that the respondent registered and is using the disputed domain name in bad faith (see Policy, paragraph 4(a)(iii)).

The Complainant has submitted evidence, which shows that the Respondent registered the disputed domain name long after the Complainant registered its CORNING trademark. Given that the Complainant's trademarks have been registered for a long time and the notoriety of the Complainant's CORNING mark, it is highly unlikely that the Respondent did not know of the Complainant and its CORNING mark prior to the registration of the disputed domain name. The disputed domain name incorporates the Complainant's CORNING mark in its entirety with an additional word "group", 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 *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 an inactive website. 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, in the particular the reputation of the Complainant's CORNING mark 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.

Based on the evidence presented to the Panel, including the confusing similarity between the disputed domain name and the Complainant's mark, the fact that no Response was submitted by the Respondent to the Complaint, the Panel finds that the disputed domain name was registered and is being used in bad faith.

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-group.com>, be transferred to the Complainant.

/Jonathan Agmon/

Jonathan Agmon

Sole Panelist

Date: October 19, 2022