

ADMINISTRATIVE PANEL DECISION

Corning Incorporated v. Mark holland
Case No. D2023-3628

1. The Parties

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

Respondent is Mark holland, United States.

2. The Domain Name and Registrar

The disputed domain name <corinng.com> is registered with Porkbun 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 that differed from the named Respondent (Whois Privacy, Private by Design, LLC) and contact information in the Complaint. The Center sent an email communication to Complainant on September 15, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on September 15, 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 Respondent of the Complaint, and the proceedings commenced on September 19, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 9, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on October 11, 2023.

The Center appointed Jeffrey D. Steinhardt as sole panelist in this matter on October 25, 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

Complainant, a company listed on the New York Stock Exchange, is a well-known international developer and manufacturer of materials, including special-purpose glass and ceramics. Complainant owns numerous registrations for its CORNING trademark in many countries, including for example United States Trademark Registration No. 545,056, registered July 17, 1951.

The disputed domain name was registered April 17, 2023 and does not resolve to an active webpage.

5. Parties' Contentions

A. Complainant

Complainant avers that it has been developing and manufacturing inventions in the area of materials science for 165 years.

Complainant alleges that this is a clear case of typosquatting, and that Respondent intentionally misspelled Complainant's CORNING trademark by reversing the letters "i" and "n" so that the disputed domain name appears as <corinnng.com>.

Summarizing its legal contentions, Complainant alleges that (1) the disputed domain name is confusingly similar to Complainant's marks, (2) Respondent has no rights or legitimate interests in the disputed domain name, and (3) the disputed domain name was registered and is being used in bad faith, all in violation of the Policy. On this basis, Complainant seeks transfer of the disputed domain name.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

For Complainant to prevail under the Policy, it must be established that (1) the disputed domain name is identical or confusingly similar to Complainant's CORNING marks, (2) Respondent has no rights or legitimate interests in the disputed domain name, and (3) the disputed domain name was registered and is being used in bad faith. Policy, paragraph 4(a).

The fact that Respondent has not provided any Response does not, by itself, mean that Complainant prevails. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.3. In the absence of a Response, however, the Panel may also accept as true reasonable factual allegations in the Complaint. See, e.g., *ThyssenKrupp USA, Inc. v. Richard Giardini*, WIPO Case No. [D2001-1425](#) (citing *Talk City, Inc. v. Michael Robertson*, WIPO Case No. [D2000-0009](#)).

A. Identical or Confusingly Similar

The Panel agrees with Complainant's allegation that the disputed domain name is confusingly similar to Complainant's CORNING mark.

UDRP panels commonly disregard Top-Level Domains ("TLDs") in determining whether a disputed domain name is identical or confusingly similar to a complainant's marks. [WIPO Overview 3.0](#), section 1.11.1.

The Panel notes that Respondent has switched the position of the first “n” in the CORNING trademark with the letter “i”, resulting in the disputed domain name <corinng.com>. The Panel finds that this inversion in the letters of Complainant’s mark do not prevent a finding of confusing similarity. See, e.g., [WIPO Overview 3.0](#), section 1.9.

The Panel therefore finds that the disputed domain name is confusingly similar to Complainant’s mark and concludes that the first element of paragraph 4(a) of the Policy is established.

B. Rights or Legitimate Interests

The Panel also concludes that Respondent has no rights or legitimate interests in the disputed domain name.

The Policy contains a non-exhaustive list of circumstances that may demonstrate when a respondent has rights or legitimate interests in a domain name. The list includes: (1) using the domain name in connection with a *bona fide* offering of goods and services; (2) being commonly known by the domain name; or (3) making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers. Policy, paragraphs 4(c)(i) – (iii).

A complainant must show a *prima facie* case that a respondent lacks rights or legitimate interests in a disputed domain name, after which the burden of rebuttal passes to the respondent. See, e.g., *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#). The absence of rights or legitimate interests is established if a complainant makes out a *prima facie* case and the respondent enters no response. *Id.*, (citing *De Agostini S.p.A. v. Marco Cialone*, WIPO Case No. [DTV2002-0005](#)).

The Panel accepts Complainant’s undisputed allegations that Respondent has no affiliation, no relevant trademark rights, and no authorization or license to use Complainant’s marks in the disputed domain name. The Panel also accepts Complainant’s averment that Respondent is not commonly known by the disputed domain name.

Since Respondent’s website does not resolve to an active webpage, the Panel concludes that there is no *bona fide* use.

In light of the record, the Panel holds that Respondent is not making a legitimate or fair use of the disputed domain name and that Complainant establishes a *prima facie* case. Respondent has not opposed or rebutted that *prima facie* case.

The Panel rules, therefore that Respondent lacks rights or legitimate interests in the disputed domain name.

The Panel accordingly concludes that the second element of Policy paragraph 4(a) is established.

C. Registered and Used in Bad Faith

The Panel also finds that Respondent has registered and uses the disputed domain name in bad faith, as provided under paragraph 4(a)(iii) of the Policy.

The CORNING trademark has been widely used in many countries for many decades, and in Respondent’s location in the United States, the CORNING trademark was registered over 70 years ago; it appears highly unlikely that Respondent was unaware of Complainant’s trademarks when registering the disputed domain name. Under the circumstances, the Panel finds that a presumption of bad faith is created by Respondent’s mere registration of a domain name which is confusingly similar to Complainant’s well-known marks. [WIPO Overview 3.0](#), section 3.1.4. Respondent has submitted no evidence to contradict this presumption of bad faith.

The Panel also finds that Respondent's failure to submit a response to the Complaint and his failure to provide complete and accurate contact details as required by Respondent's agreement with the Registrar evidence use in bad faith. *E.g., Telstra Corp. Ltd. v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).¹

The Panel further finds that the non-use of the disputed domain name does not prevent a finding of bad faith under the doctrine of passive holding.

The Panel holds therefore that Respondent registered and is using the disputed domain name in bad faith, thus fulfilling the requirements of 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 <corinn.com> be transferred to Complainant.

/Jeffrey D. Steinhardt/

Jeffrey D. Steinhardt

Sole Panelist

Date: November 6, 2023

¹ Written notification of the Complaint to Respondent by courier was not possible using the registrant address details provided by Respondent to the Registrar.