

ADMINISTRATIVE PANEL DECISION

Corning Incorporated v. Carolina Rodrigues, Fundacion Comercio Electronico Case No. D2023-3631

1. The Parties

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

The Respondent is Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

2. The Domain Name and Registrar

The disputed domain name <cbcorning.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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 14, 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 14, 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 15, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 5, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 11, 2023.

The Center appointed Enrique Ochoa de González Argüelles as the 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

The Complainant is a publicly traded company (NYSE: Corning Incorporated Common Stock ("GLW")) and one of the world's leading innovators in materials science, with a more than 165-year track record of life-changing inventions. The Complainant is the owner of the famous CORNING trademark, which is the subject of hundreds of trademark registrations worldwide.

The disputed domain name resolves to a PPC website displaying links to competitors of the Complainant as well as links to sites selling goods and services that compete with, or rival, those offered by the Complainant. The disputed domain name is also listed for sale at Aftermic.com for USD 1299.00.

The Complainant is the owner of several trademark registrations worldwide for trademarks comprised of, or containing, CORNING (collectively, the "CORNING Trademarks"). In particular, United States trademark for CORNING No. 1748228, registered on January 26, 1993, and European Union Trade Mark for CORNING No. 016966822, registered on November 6, 2017.

The Respondent registered the disputed domain name on April 18, 2023.

5. Parties' Contentions

A. Complainant

The Respondent registered the disputed name for the purpose of selling, renting, licensing or otherwise transferring it to the Complainant for valuable consideration in excess of its actual costs.

The Respondent registered the disputed domain name in an attempt to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant as to source or sponsorship.

The Complainant is the registered owner of the "CORNING Trademarks" and same are identical or confusingly similar to the disputed domain name, which also incorporate the whole CORNING brand.

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.

The disputed domain name resolves to a pay-per-click ("PPC") website that displays sponsored links to competitors of the Complainant, while also allowing end users to search for products that rival, or compete with, the Complainant. This use of the disputed domain name puts the Respondent in a position to reap a financial benefit. This constitutes *prima facie* evidence of no rights.

The Complainant has established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name.

There is no evidence to suggest that the 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.

The Respondent does not have a legitimate interest or rights in the disputed domain name.

The disputed domain name was registered and is being used in bad faith, since:

- The Respondent acquired the disputed domain name for the purpose of selling, renting, licensing or otherwise transferring them to the Complainant for valuable consideration in excess of its actual costs;
- The Respondent is actively promoting the sale of the disputed domain name at Afternic.com.
- The Respondent's offer to sell the disputed domain name constitutes *prima facie* evidence of bad faith;
- 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;
- Numerous panels have held that directing a domain name that is confusing with a third party trade-mark to a PPC website constitutes bad faith;
- The disputed domain name is confusingly similar with the "CORNING Trademarks" and has been made to resolve to a PPC website and this use is likely to confuse potential consumers into believing that the Respondent is somehow affiliated with, or endorsed by, the Complainant;
- The Respondent in a position to reap a financial benefit; and
- Given the nature of the disputed domain name, there can be no doubt that the Respondent had actual knowledge of the CORNING Trademarks at the time of registration, thereby supporting a finding of bad faith. At the very least, the Respondent had constructive knowledge of the CORNING trademark by virtue of the "CORNING Trademarks".

B. Respondent

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

6. Discussion and Findings

In the absence of a response from the Respondent, the undersigned allows the possibility of considering certain such assertions by the Complainant as it deems reasonable, in terms of section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

On the other hand, it should be noted that in order to claim the disputed domain name, the Complainant must satisfy the following elements:

- (1) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (2) the Respondent should be considered as having no rights or legitimate interests in respect of the disputed domain name; and
- (3) the disputed domain name should be considered as having been registered and being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has accredited rights to the "CORNING Trademarks".

The Panelist notes that the disputed domain name includes the trademark CORNING in its entirety.

Even with the inclusion of the letters “cb”, the trademark CORNING is recognizable within the disputed domain name, which inevitably causes it to be confusingly similar with the “CORNING Trademarks”. See section 1.7 of the [WIPO Overview 3.0](#) and *Corning Incorporated v. kai zheng, zheng kai*, WIPO Case No. [D2021-0802](#).

Furthermore, as decided in previous cases, the addition of the generic Top-Level Domain (“gTLD”) “.com” is irrelevant to the make a comparison between signs for the purposes of the first element, as set out in section 1.11.1 of the [WIPO Overview 3.0](#).

B. Rights or Legitimate Interests

As mentioned above, the Complainant argued that the Respondent had no rights or legitimate interests with respect to the disputed domain name, and in the absence of a response, this circumstance was not refuted.

The Respondent did not provide evidence as to whether it was the owner of any rights in terms of the Policy or if it was a licensee, *bona fide* user, or any other title to the name of the disputed domain name.

The Panel agrees with the Complainant that the fact that the disputed domain name resolves to a page containing PPC links relating to the services offered by the Complainant, and therefore competes with the reputation and a goodwill of the Complainant’s CORNING trademark. As it mentioned in the section 2.9 of the [WIPO Overview 3.0](#), UDRP panels have consistently found that such use of a domain name can neither be considered legitimate noncommercial or fair use of the domain name nor a *bona fide* offering of goods or services.

Being that the Complainant has to prove its claim, it is also true that such the Complainant has established a *prima facie* case that the Respondent has no rights or legitimate interests on the disputed domain name and therefore the burden of providing evidence on such rights is transferred to the Respondent, as decided in *Skyscanner Limited v. Domain Admin, Privacy Protect, LLC and DOMAIN MAY BE FOR SALE, CHECK AFTERNIC.COM Domain Admin, Whois Foundation*, WIPO Case No. [D2019-2023](#).

C. Registered and Used in Bad Faith

According to this Panelist, the Respondent was aware of the existence of the Complainant and its activities before the registration of the disputed domain name, provided that:

- The Complainant is a worldwide very well-known company, leading innovator in materials science and holder of the trademark CORNING registered in several countries.
- The disputed domain name resolved to a PPC website displaying links to competitors of the Complainant and is confusingly similar to the CORNING trademarks.
- The disputed domain name was registered to attract users for commercial gain via PPC practices deceiving netizens.
- The disputed domain name is listed for sale at Aftermic.com for USD 1299.00, likely at a higher value than its cost.
- The Respondent registered the disputed domain name on April 18, 2023, after the registration of “CORNING Trademarks” via a “private” scheme, not to show the current holder.
- The Respondent did not file a response and did not evidence having rights in the disputed domain name.

In view of the above, this Panelist determines that the Complainant has accredited the registration and use of the disputed domain name <cbcorning.com> in bad faith, as set forth in the Policy, section 3.1.4 of the

[WIPO Overview 3.0](#) and *Kansas City Steak Company, LLC v. Zhichao Yang (杨智超), Zhi Chao Yang, YangZhiChao, Zhichao, Domain Administrator, Fundacion Privacy Services LTD, zhong jun quan, quan zhong jun, Domain Administrator, Sugarcane Internet Nigeria Limited*, WIPO Case No. [D2023-1600](#).

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 <cbcoming.com> be transferred to the Complainant.

/Enrique Ochoa de González Argüelles/

Enrique Ochoa de González Argüelles

Sole Panelist

Date: November 8, 2023