

## **ADMINISTRATIVE PANEL DECISION**

Corning Incorporated v. Perla Cortez  
Case No. D2023-3635

### **1. The Parties**

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

The Respondent is Perla Cortez, Mexico.

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

The disputed domain name <corning.global> (the “Disputed Domain Name”) 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 30, 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 12, 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 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 17, 2023.

The Center appointed Nicholas Weston as the sole panelist in this matter on November 10, 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 New York Stock Exchange (“NYSE”) listed company that operates a multinational business providing specialty glass, ceramics and advanced optical technologies with 2018 revenue of USD 11.29 billion. The Complainant holds a significant portfolio of registrations for the trademark CORNING, and variations of it, in numerous countries, including Canada Registration No. 57525, registered on September 1, 1932.

The Complainant owns the domain name <corning.com>, which hosts its main website.

The Disputed Domain Name <corning.global> was registered on March 6, 2023. The Disputed Domain Name resolves to a pay-per-click (“PPC”) parking page including links to “Eppendorf Pipette”, “Küche und Co”, and “Centrifuge Tube”.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The Complainant cites its trademark registrations around the world for the mark CORNING, and variations of it, as *prima facie* evidence of ownership.

The Complainant submits that the mark CORNING has gained a significant global reputation and that its rights in that mark predate the Respondent’s registration of the Disputed Domain Name. It submits that the Disputed Domain Name is identical to its trademark, because the Disputed Domain Name is solely comprised of the CORNING trademark and that the identity is not removed by the generic Top-Level Domain (“gTLD”) “.global”.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because “[w]ithout the permission of the Complainant, the Respondent registered the [Disputed] Domain Name” and “[t]here 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”.

Finally, the Complainant alleges that the registration and use of the Disputed Domain Name was, and currently is, in bad faith, contrary to the Policy and the Rules having regard to the prior registrations of the Complainant’s trademark, and “would likely confuse potential consumers into believing that the Respondent is somehow affiliated with, or endorsed by, the Complainant” and “would result in Internet traffic being diverted from the Complainant to the Respondent, thereby putting the Respondent in a position to reap a financial benefit.”

##### **B. Respondent**

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

#### **6. Discussion and Findings**

Under paragraph 4(a) of the Policy, the Complainant has the burden of proving the following:

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

#### **A. Identical or Confusingly Similar**

The Complainant has produced sufficient evidence to demonstrate that it has registered trademark rights in the mark CORNING in numerous countries including the United States, the European Union, Canada, China, and Australia. The requirements of the first element for purposes of the Policy may be satisfied by a trademark registered in any country (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.2.1).

Turning to whether the Disputed Domain Name is identical or confusingly similar to the CORNING trademark, the Panel observes that the Disputed Domain Name is comprised of: (a) an exact reproduction of the Complainant's trademark CORNING; (b) followed by the gTLD ".global".

It is well established that the gTLD used as part of a domain name is generally disregarded. The relevant comparison to be made is with the second-level portion of the Disputed Domain Name, specifically: "corning".

As the relevant mark is incorporated identically in the Disputed Domain Name, in line with previous UDRP decisions, this Panel finds the Disputed Domain Name is identical to the Complainant's CORNING trademark for purposes of UDRP standing (see [WIPO Overview 3.0](#), section 1.7).

Accordingly, the Panel finds that the Complainant has established paragraph 4(a)(i) of the Policy.

#### **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy lists the ways that the Respondent may demonstrate rights or legitimate interests in the Disputed Domain Name. The Policy also places the burden on the Complainant to establish the absence of the Respondent's rights or legitimate interests in the Disputed Domain Name. Because of the inherent difficulties in proving a negative, the consensus view is that the Complainant need only put forward a prima facie case that the Respondent lacks rights or legitimate interests. The burden of production then shifts to the Respondent to rebut that prima facie case (see [WIPO Overview 3.0](#), section 2.1).

The word "corning" has no ordinary meaning other than in connection with the Complainant and there is no indication that the Respondent was commonly known by the word "corning" prior to registration of the Disputed Domain Name. The Complainant infers that it has not licensed, permitted, or authorized the Respondent to use the trademark CORNING.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name and is misleadingly directing Internet users to a PPC landing web page with links e.g., advertising: "Eppendorf Pipette", "Küche und Co", and "Centrifuge Tube", thereby taking unfair advantage of the owner's goodwill and reputation for its own benefit.

On any objective view, the Respondent is not a reseller with a legitimate interest in the Disputed Domain Name incorporating the Complainant's mark, such that it could meet the tests set out in *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#). Nor, alternatively, is the Respondent commonly known by the Disputed Domain Name. The Panel finds that because the Disputed Domain Name consists of the Complainant's famous trademark, it carries a risk of implied affiliation and cannot constitute fair use given the suggested sponsorship or endorsement by the Complainant (see [WIPO Overview 3.0](#), section 2.5.1).

Further, the Respondent's use of the Complainant's mark to direct users to the PPC page advertising competing products does not support a claim of legitimate noncommercial or fair use (see [WIPO Overview 3.0](#), section 2.5.3).

The Respondent did not submit a Response and has not come forward with any claims or evidence of rights or legitimate interests in the Disputed Domain Name in its informal communications.

This Panel finds that the Complainant has made out a prima facie case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name and, in the absence of any evidence to the contrary from the Respondent, the Panel finds for the Complainant on the second element of the Policy.

### **C. Registered and Used in Bad Faith**

The third element of the Policy that the Complainant must also demonstrate is that the Disputed Domain Name has been registered and used in bad faith. Paragraph 4(b) of the Policy sets out certain circumstances to be construed as evidence of both of these conjunctive requirements.

The Panel finds that the evidence in the case shows the Respondent registered and has used the Disputed Domain Name in bad faith.

On the issue of registration, taking into account the composition of the Disputed Domain Name and the content of the PPC website it resolves to, the Panel is satisfied that the Respondent knew of and targeted the Complainant's trademark CORNING when it registered the Disputed Domain Name (see *Corning Incorporated v. Shoucheng Hu*, WIPO Case No. [D2023-0455](#) (“[g]iven... the distinctive nature and long-time use of the Complainant's trademark CORNING, it is inconceivable to the Panel in the current circumstances that the Respondent registered the disputed domain name without prior knowledge of the Complainant and the Complainant's marks”)).

This Panel finds that there is no reason for the Respondent to have registered the Disputed Domain Name other than to trade off the reputation and goodwill of the Complainant's well-known trademark (see *Charles Jourdan Holding AG v. AAIM*, WIPO Case No. [D2000-0403](#) (which held that the domain name in question was “so obviously connected with the Complainant and its products that its very use by someone with no connection with Complainant suggests opportunistic bad faith”).

The diversion of Internet users for commercial gain is also a common example of use in bad faith as referred to in paragraph 4(b)(iv) of the Policy and identified in many previous UDRP decisions (see [WIPO Overview 3.0](#), section 3.1.4).

Further, a gap of several years between registration of a complainant's trademark and respondent's registration of a disputed domain name (containing the trademark) can indicate bad faith registration (see *Asian World of Martial Arts Inc. v. Texas International Property Associates*, WIPO Case No. [D2007-1415](#)). In this case, the Respondent registered the Disputed Domain Name several decades after the Complainant established trademark rights in the CORNING mark.

On the issue of use, the evidence is that the Disputed Domain Name resolves to a PPC parking page unconnected with any *bona fide* supply of goods or services by the Respondent. The Panel surmises that the business model in this case, was for the Respondent to passively collect click-through revenue generated solely from the Complainant's goodwill and Internet users' misdirection caused by the incorporation of the Complainant's trademark in the Disputed Domain Name in its entirety. Exploitation of the reputation of a trademark to obtain click-through commissions from the diversion of Internet users is a common example of use in bad faith as referred to in paragraph 4(b)(iv) of the Policy and identified in many previous UDRP decisions (see [WIPO Overview 3.0](#), section 3.5).

The Panel finds that there appear to have been no positive efforts by the Respondent to seek to prevent a finding of bad faith, such as by using negative keywords to avoid links such as “Eppendorf Pipette” and “Centrifuge Tube”, which plainly target the Complainant’s mark (see [WIPO Overview 3.0](#), section 3.5). For that reason, the Respondent cannot disclaim responsibility for content appearing on the PPC page associated with the Disputed Domain Name even though such links are generated by a third party platform. Targeting of this nature is a common example of use in bad faith as referred to in paragraph 4(b) of the Policy and also identified in many previous UDRP decisions (see [WIPO Overview 3.0](#), sections 3.1.4 and 3.2.1).

In the absence of any evidence to the contrary, or any response, which is plainly called for, this Panel finds that the Respondent has taken the Complainant’s trademark CORNING and incorporated it in the Disputed Domain Name without the Complainant’s consent or authorization, for the purpose of capitalizing on the reputation of the trademark by diverting Internet users to a PPC parking web page for commercial gain.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(iii) 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.global> be transferred to the Complainant.

*/Nicholas Weston/*

**Nicholas Weston**

Sole Panelist

Date: November 17, 2023