

ADMINISTRATIVE PANEL DECISION

Corning Incorporated v. Jing Chen, PPP
Case No. D2024-1178

1. The Parties

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

The Respondent is Jing Chen, PPP, China.

2. The Domain Name and Registrar

The disputed domain name <corning-asiapacific.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 March 18, 2024. On March 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 19, 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, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 21, 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 the Complaint on the same date.

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 April 2, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 22, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 25, 2024.

The Center appointed Erica Aoki as the sole panelist in this matter on May 14, 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 claims it is one of the world's leading innovators in materials science, with a more than 165-year track record of life-changing inventions. The Complainant applies its expertise in glass science, ceramic science, and optical physics along with its deep manufacturing and engineering capabilities to develop category-defining products that transform industries and enhance people's lives and is a publicly traded company (NYSE: GLW).

The Complainant is the owner of over 325 trademark registrations worldwide for trademarks comprised of, or containing, CORNING (collectively, the "CORNING Trademarks"), inter alia, United States trademark registration for CORNING No. 618649 registered on January 3, 1956.

The Complainant is the holder of domain name <corning.com> which incorporates the CORNING trademark.

The disputed domain name was registered on February 28, 2024, and resolves to a pay-per-click ("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 website also provides a means by which end users can search for links to competitor sites of the Complainant.

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.

Notably, the Complainant contends that it has accrued substantial goodwill and recognition in the CORNING trademark, which was first registered as a trademark on January 3, 1956.

The Complainant contends that the disputed domain name is confusingly similar with the CORNING trademarks in which the Complainant has rights.

The Complainant contends that the disputed domain name incorporates the whole of the famous CORNING trademark and the fact that the disputed domain name includes the term "asiapacific" does nothing to diminish confusion, on the contrary, it is enhanced by the addition of the word "asiapacific". The addition of this word is likely to confuse end users as to source or sponsorship as the disputed domain name suggests it resolves to the Complainant's website promoting its Asia-Pacific operations.

The Complainant contends that the Respondent is using the disputed domain name to resolve to a pay-per-click 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 website also provides a means by which end users can search for links to competitor sites of the Complainant. As well, the website features the CORNING trademark in the banner. This use of the disputed domain name puts the Respondent in a position to reap a financial benefit. 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.

B. Respondent

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

6. Discussion and Findings

The Complainant is required to establish the requirements specified under paragraph 4(a) of the Policy:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in respect of 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

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 disputed domain name only differs from the Complainant's CORNING trademark with the addition of the term "asiapacific" preceded by a hyphen. The CORNING trademark remains clearly recognizable in the disputed domain name and it is therefore confusingly similar to the Complainant's trademark. 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. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.7 and 1.8.

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.

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 website also provides a means by which end users can search for links to competitor sites of the Complainant.

Use of a domain name to host a parked page comprising PPC links does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the Complainant's trademark or otherwise mislead Internet users. [WIPO Overview 3.0](#), section 2.9.

Furthermore, the composition of the disputed domain name, consisting of the Complainant's CORNING trademark in conjunction with the term "asiapacific", carries a risk of implied affiliation and cannot constitute fair use.

There is no evidence on record that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the Complainant's trademark.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Complainant's CORNING trademarks are long-established and well known, as outlined. The Complainant asserts that it is inconceivable that the Respondent did not have the Complainant firmly in mind when it registered the disputed domain name.

The Respondent has registered the disputed domain name to target the Complainant. The disputed domain name has been chosen to deliberately incorporate the entirety of the Complainant's CORNING trademark.

The disputed domain name resolves to a parked site displaying PPC links to third-party sites and services including links unrelated to the Complainant, while others direct Internet users to competitor sites. The Respondent is unfairly capitalizing on the trademark value of the Complainant's CORNING trademark to attract and direct Internet users to competing or unrelated offerings. Therefore, the Respondent has registered and used the disputed domain name in bad faith pursuant paragraph 4(b)(iv) of the Policy.

The Respondent has chosen the disputed domain name to trade off the reputation and goodwill associated with the Complainant's CORNING trademark and to cause confusion amongst Internet users. [WIPO Overview 3.0](#), section 3.4.

Having reviewed the record, the Panel finds that the Respondent registered and used the disputed domain name in bad faith.

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 <corning-asiapacific.com> be transferred to the Complainant.

/Erica Aoki/

Erica Aoki

Sole Panelist

Date: May 28, 2024