

ADMINISTRATIVE PANEL DECISION

Corning Incorporated v. 武汉睿途科技有限公司 (wu han qian tu ke ji you xian gong si)

Case No. D2024-1757

1. The Parties

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

The Respondent is 武汉睿途科技有限公司 (wu han qian tu ke ji you xian gong si), China.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on April 25, 2024. On April 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 28, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 29, 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 in English on April 29, 2024.

On April 29, 2024, the Center informed the Parties in Chinese and English, that the language of the Registration Agreement for the disputed domain name is Chinese. On April 29, 2024, the Complainant requested English to be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

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 in English and Chinese of the Complaint, and the proceedings commenced on May 28, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 17, 2024. An email communication in English was received by the Center on April 28, 2024 from an email address different from the one confirmed by the Registrar as the Respondent's email address. On June 18, 2024, the Center informed the Parties that it would proceed with panel appointment.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on July 1, 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 is a publicly traded company with a history of over 165 years. The Complainant is currently listed at the New York Stock Exchange and provides materials science manufacturing and engineering services. Its global headquarters are located in the United States. In 2018 alone, the Complainant generated USD 11.29 billion in revenue, and over USD 30 billion altogether between 2016 and 2018.

The Complainant owns an international trademark portfolio for the CORNING marks in different jurisdictions, including, but not limited to, United States trademark registration No. 618649 for CORNING, registered on January 3, 1956; European Union trademark registration No. 016966822 for CORNING, registered on November 6, 2017; and Chinese trademark registration No. 576489 for CORNING, registered on December 20, 1991. The Complainant also has a strong online presence and is the owner of various domain names including the abovementioned marks, including <corning.com>, where it hosts its main website.

The disputed domain name was registered on April 9, 2024, and is therefore of a later date than the abovementioned trademarks of the Complainant. The Complainant submits evidence that the disputed domain name has directed to an inactive webpage.

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 the disputed domain name is confusingly similar to its registered trademarks as it incorporates the CORNING mark entirely. The Complainant also claims that the Respondent has no rights or legitimate interests in respect of the disputed domain name: the Respondent is not a licensee of the Complainant, and the Complainant has not given the Respondent any permission to register the trademark as a domain name, nor is there any evidence that the Respondent has been commonly known by the disputed domain name.

The Complainant states that the Respondent had actual or at least constructive knowledge of the Complainant's CORNING marks when registering the disputed domain name and that the registration was therefore conducted in bad faith. The Complainant adds that the disputed domain name is not in use and that 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 argues that it is a well-established principle that it is not necessary for a disputed domain name to be associated with an active website for a finding of bad faith to be made under paragraph 4(b)(iv) of the Policy. Furthermore, the Complainant argues that the disputed domain name contains the famous CORNING trademark and that accordingly, if it is ever put to use, would likely confuse

potential consumers into believing that the Respondent is somehow affiliated with, or endorsed by, the Complainant. Furthermore, the Complainant adds that if it is ever put to use, it 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. The Complainant essentially argues that the current passive holding of the disputed domain name by the Respondent constitutes use in bad faith and contends that the Respondent intentionally attempts to attract, for commercial gain, Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's mark CORNING as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location.

B. Respondent

On April 28, 2024, the Center received an email communication in English from an email address different from the one confirmed by the Registrar as the Respondent's email address. This person claimed to have registered the disputed domain name, and requested additional information concerning the proceeding.

6. Discussion and Findings

6.1. Preliminary Issue: Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that the disputed domain name is expressed in English (and not in Chinese) and that as a result, the Respondent is unlikely to be prejudiced by the proceeding in English; the allegation that the selection of Chinese as the language of the proceeding would cause an undue burden on the Complainant in terms of translation expenses; and the allegation that the selection of Chinese as the language of the proceeding would cause undue delay.

The Respondent did not make any submissions with respect to the language of the proceeding. The person who claimed to have registered the disputed domain name sent its communication in English.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

6.2. Substantive Issues

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 3.0](#), section 1.7.

Based on the available record, the Panel finds 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 Panel finds the entirety of the Complainant's mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of another term, here, "-mail" may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, 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.

Furthermore, the Panel notes that the disputed domain name directs to an inactive or error webpage and that the Respondent has apparently not used the disputed domain name in connection with a bona fide offering of goods or services, nor any credible preparations for that purpose. In this regard, the Panel finds that holding a domain name passively, without making any use of it, does not confer any rights or legitimate interests in the disputed domain name on the Respondent under the circumstances of this case (see in this regard earlier UDRP decisions such as *Bollore SE v. 赵竹飞 (Zhao Zhu Fei)*, WIPO Case No. [D2020-0691](#); and *Vente-Privee.Com and Vente-Privee.com IP S.à.r.l. v. 崔郡 (jun cui)*, WIPO Case No. [D2021-1685](#)).

Finally, the Panel also finds that the nature of the disputed domain name, incorporating the Complainant's mark entirely and merely combining it with the term "-mail", carries a risk of implied affiliation and cannot constitute fair use, as it effectively impersonates the Complainant and its products or suggests sponsorship or endorsement by the Complainant (see [WIPO Overview 3.0](#), section 2.5.1).

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Respondent has registered a domain name which is confusingly similar to the Complainant's well-known, intensely used and distinctive trademark for CORNING, and combined it with the term "-mail", which clearly suggests an affiliation or other connection to the Complainant,

or even that the disputed domain name would be used by the Complainant for its mailing or emailing services or activities. The Panel also accepts the well-known nature of the Complainant's mark, and refers in this context to earlier decisions by panels applying the Policy which have also concluded that the Complainant's CORNING mark is well known, see for instance *Corning Incorporated v. Hulie John*, WIPO Case No. [D2023-3637](#). On this basis, the Panel refers to the [WIPO Overview 3.0](#), section 3.1.4, which states "[p]anels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith". Furthermore, the Panel also notes that the Complainant's trademarks were registered many years before the registration date of the disputed domain name. The Panel deducts from these elements that the Respondent knew, or at least should have known, of the existence of the Complainant's trademarks at the time of registering the disputed domain name. In the Panel's view, these elements indicate bad faith on the part of the Respondent, and the Panel therefore finds that it has been demonstrated that the Respondent registered the disputed domain name in bad faith.

As to use in bad faith, panels 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, [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the well-known nature, distinctiveness, and intensive use of the Complainant's trademark; the failure of the Respondent to submit a response; and the unlikelihood of any good-faith use of the disputed domain name by the Respondent, considering the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Based on the available record, 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-mail.com> be transferred to the Complainant.

/Deanna Wong Wai Man/

Deanna Wong Wai Man

Sole Panelist

Date: July 11, 2024