

ADMINISTRATIVE PANEL DECISION

Corning Incorporated v. Lee Corning, leecorning.com
Case No. DAI2024-0055

1. The Parties

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

The Respondent is Lee Corning, leecorning.com, United States.

2. The Domain Name and Registrar

The disputed domain name <orning.ai> is registered with .AI Registry (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 12, 2024. On July 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 16, 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 (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 17, 2024 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. On August 14, 2024, the Complainant requested a 30-day suspension of the proceedings to explore settlement. The Complainant confirmed that it did not wish to amend the Complaint and requested the reinstatement of the proceedings on August 26, 2024.

The Center verified that 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 4, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 24, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Parties of the Respondent’s default on September 26, 2024.

The Center appointed Ingrīda Kariņa-Bērziņa as the sole panelist in this matter on October 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 develops and manufactures products in the material sciences sector. It is the proprietor of numerous registrations around the world for its CORNING trademark, including the following:

- Canadian Trademark No. 0113767 for “CORNING” (word mark), registered on May 29, 1939 for goods in class 21;
- United States Trademark Registration No. 618649 for CORNING (word mark), registered on January 3, 1956 for goods in classes 9, 19 and 21, claiming a date of first use in October 1878; and
- European Union Trademark No. 16966822 for CORNING (word mark), registered on November 6, 2017 for goods in classes 7, 9, 10, 11, 12, 19, and 21.

The Complainant operates its primary business website at the domain name <corning.com>.

The disputed domain name was registered on May 16, 2023. The record reflects evidence that, at the time of the Complaint, it resolved to a website featuring pay-per-click (“PPC”) links for “material handling (sic) equipment”, “optical fiber” and “fiber cable”. At the time of this Decision, it did not resolve to an active website.

No information is available about the Respondent.

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 is one of the world’s leading innovators in materials science, with a more than 165-year track record of life-changing inventions in glass science, ceramic science, and optical physics. It generated over USD 11 billion in revenue in 2018. The disputed domain name incorporates the Complainant’s entire mark and resolves to a website displaying pay-per-click links to competitors of the Complainant, which puts the Respondent in a position to reap a financial benefit. The Respondent has no rights or legitimate interests in the disputed domain name. Given the nature of the registration, there can be no doubt that the Respondent had knowledge of the Complainant and of its trademarks.

The Complainant requests transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the UDRP requires the Complainant to make out all three of the following:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the Respondent has registered and is using the disputed domain name in bad faith.

Under paragraph 15(a) of the Rules, “[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

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 entirety of the CORNING mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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 Panel notes that the name of the Respondent is provided as “Lee Corning” and the organization is listed as “leecorning.com”. According to UDRP practice, a respondent may establish rights or legitimate interests in a domain name based on being commonly known by that domain name. However, mere assertions that a respondent is commonly known by the domain name will not suffice; respondents are expected to respond and to produce concrete credible evidence, such as, for example, identification documents, examples of secondary materials or publications, or correspondence. See [WIPO Overview 3.0](#), section 2.3.

The record in this case does not provide any basis for the Panel to conclude that the Respondent is commonly known by the disputed domain name. The Respondent has not provided any Response nor any evidence in this matter whatsoever; the Panel also notes, insofar as it is listed for the Respondent Organization, that it visited the “leecorning.com” site, but that is of no help as to the possible “commonly known by” factor as it merely states “We’re under construction. Please check back for an update soon.”

The Panel notes that the disputed domain name reflects the Complainant’s well-established CORNING mark in its entirety, also mirroring the composition of the Complainant’s domain name at <corning.com>. Such a composition carries a high risk of implied affiliation with the Complainant, which is inconsistent with a finding that the Respondent has rights or legitimate interests in the disputed domain name. See [WIPO Overview 3.0](#), section 2.5.1.

The Panel further notes that, at time of the initial Complaint, the disputed domain name resolved to a site featuring PPC links related to the Complainant’s business. Under these circumstances, the Panel finds that such use does not establish rights or legitimate interests. [WIPO Overview 3.0](#), section 2.9.

Absent any evidence provided by the Respondent, and noting the PPC activity, the Panel is unable to find that the Respondent is commonly known by the disputed domain name nor that the Respondent is making legitimate noncommercial or fair use of it.

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 intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant’s mark. The disputed domain name was registered more than 80 years after the Complainant first registered its CORNING trademark and more than 140 years after the Complainant first asserted rights in that mark. The disputed domain name is identical to the Complainant’s mark and therefore implies a connection to the Complainant. The available record does not provide any support for a conclusion that the disputed domain name reflects the name of the Respondent. Under these circumstances, the Panel finds that the disputed domain name was registered in bad faith. [WIPO Overview 3.0](#), section 3.1.

The Panel finds that the use of the disputed domain name to resolve to a website featuring PPC links related to the Complainant’s business, and redirecting users to the Complainant’s competitors, is an indication of bad faith use of the disputed domain name. [WIPO Overview 3.0](#), section 3.5.

The Respondent has provided no evidence of actual or contemplated good-faith use of the disputed domain name, nor does the Panel find any such use plausible.

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 <orning.ai> be transferred to the Complainant.

/Ingrīda Kariņa-Bērziņa/

Ingrīda Kariņa-Bērziņa

Sole Panelist

Date: October 15, 2024