

ADMINISTRATIVE PANEL DECISION

Corning Incorporated v. Michael Stack
Case No. D2023-4514

1. The Parties

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

The Respondent is Michael Stack, United States.

2. The Domain Name and Registrar

The disputed domain name <corninginc.org> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 30, 2023. On October 31, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 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 (Redacted For Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 1, 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 November 1, 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 November 2, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 22, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 27, 2023.

The Center appointed Colin T. O’Brien as the sole panelist in this matter on January 8, 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 165-year-old company offering goods and services in glass science, ceramic science, and optical physics, manufacturing, and engineering. Complainant generated USD 11.29 billion in revenue, and accumulated over USD 30 billion between 2016 and 2018.

The Complainant operates a website at “www.corning.com”.

The Complainant is the owner of trademark registrations worldwide for CORNING including:

- United States Trademark Registration No. 618649, registered on January 3, 1956;
- European Union Trademark Registration No. 16966822, registered on November 6, 2017;
- Canadian Trademark Registration No. TMA186211, registered on October 20, 1972.

The Respondent registered the disputed domain name on October 23, 2023.

The disputed domain name has been made to resolve 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. The website features the CORNING trademark in its banner.

5. Parties’ Contentions

A. Complainant

The disputed domain name incorporates the whole of the famous CORNING trademark. The fact that the disputed domain name includes the term “inc” does not diminish confusion. Despite this addition, the disputed domain name remains very similar to the CORNING trademarks in appearance, sound and the ideas suggest. The Confusion is further enhanced by the addition of the word “inc”, an abbreviation for “incorporated”. As a result, end users are likely to be misled into believing that the disputed domain name resolves to a website operated by, or otherwise connected to, the Complainant.

An unauthorized party cannot claim rights or legitimate interests in a domain name that contains, or is confusing with, a complainant’s mark, as the activities of such a party cannot be said to constitute a *bona fide* offering of goods or services.

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 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.

Accordingly, the disputed domain name was registered and is being used in an attempt to intentionally attract, for commercial gain, Internet users to the Respondent’s website by creating a likelihood of confusion with the Complainant’s mark as to source, sponsorship, affiliation, or endorsement.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has demonstrated it owns registered trademark rights in the CORNING mark globally. The CORNING mark is clearly recognizable in the disputed domain name, and the addition of the term “inc” does not prevent a finding of confusing similarity. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.8.

Accordingly, the disputed domain name is confusingly similar to a mark in which the Complainant has rights.

B. Rights or Legitimate Interests

The Complainant has presented a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name and has not been commonly known by the disputed domain name. The fact that the Respondent obtained the disputed domain name 165 years after the Complainant had begun using its CORNING mark indicates that the Respondent sought to piggyback on the mark’s reputation for illegitimate purposes. Further, the nature of the disputed domain name carries a risk of implied affiliation with the Complainant, which is contrary to the fact and cannot be considered fair use. [WIPO Overview 3.0](#), section 2.5.1.

After a complainant has made a *prima facie* case, the burden of production shifts to a respondent to present evidence demonstrating rights or legitimate interests in the domain name. See, e.g., *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#).

Here, the Respondent has provided no evidence of any rights or legitimate interests in the disputed domain name.

In the absence of any evidence rebutting the Complainant’s *prima facie* case indicating the Respondent’s lack of rights or legitimate interests in respect of the disputed domain name, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The disputed domain name was registered many years after the Complainant first registered and used its global CORNING trademark. The evidence on the record provided by the Complainant with respect to the extent of use and global fame of its CORNING trademark, combined with the absence of any evidence provided by the Respondent to the contrary, is sufficient to satisfy the Panel that, at the time the disputed domain name was registered, the Respondent undoubtedly knew of the Complainant’s CORNING trademark, and knew that it had no rights or legitimate interests in the disputed domain name.

There is no reason for the Respondent to have registered the disputed domain name containing the entirety of the CORNING trademark along with the abbreviation “inc”.

Further, the use of the disputed domain name by the Respondent is clearly in bad faith. Paragraph 4(b)(iv) of the Policy states that evidence of bad faith may include a respondent’s use of a disputed domain name to intentionally attempt to attract, for commercial gain, Internet users to the respondent’s website or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the respondent’s website or location or of a product or service on the respondent’s website or location. The Complainant has submitted evidence showing that the Respondent has used the disputed domain name in order to direct users to a parked website featuring PPC links to the Complainant’s competitors. Given the fame of the Complainant’s CORNING mark, it is an obvious inference that the Respondent aimed to mislead customers of the Complainant to visit the website at the disputed

domain name, trading on the Complainant's trademark and reputation for revenue. This is a textbook example of bad faith use on the part of the Respondent.

In the absence of any evidence or explanation from the Respondent, the Panel finds that the only plausible basis for registering and using the disputed domain name has been for bad faith purposes.

Accordingly, the Panel finds that the Complainant has satisfied 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 <corninginc.org> be transferred to the Complainant.

/Colin T. O'Brien/

Colin T. O'Brien

Sole Panelist

Date: January 23, 2024