

ADMINISTRATIVE PANEL DECISION

Corning Incorporated v. Carolina Rodrigues, Fundacion Comercio Electronico
Case No. D2023-3640

1. The Parties

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

The Respondent is Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

2. The Domain Name and Registrar

The disputed domain name <corningf.com> 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 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 (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 8, 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 19, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 9, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 12, 2023.

The Center appointed Enrique Ochoa de González Argüelles as the sole panelist in this matter on October 25, 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 publicly traded company (NYSE: GLW) and one of the world's leading innovators in materials science, with a more than 165-year track record of life-changing inventions. The Complainant is the owner of the CORNING trademark, which is the subject of hundreds of trademark registrations worldwide.

The Complainant is the owner of several trademark registrations worldwide for trademarks comprised of, or containing, CORNING (collectively, the "CORNING Trademarks") including United States Trademark Registration No. 618649, registered on January 3, 1956.

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 Respondent registered the disputed domain name on August 25, 2023.

5. Parties' Contentions

A. Complainant

The disputed domain name constitutes a clear case of "typosquatting" as the Respondent has added the letter "f" to the end of the famous CORNING trademark. This was an attempt on the part of the Respondent to leverage a typographical error, as the letter key "f" is positioned to the immediate left of the letter key "g" on the keyboard.

The Respondent has engaged in a pattern of registering domain names that contain trademarks to which he is not entitled and has prevented the Complainant from registering the disputed domain name.

The Respondent has engaged in an extensive pattern of abusive domain name registrations having registered numerous domain names to which he is not entitled; the Respondent has registered over 1000 domain names, a number of which reflect instances of the misappropriation of third party trademarks, including typos.

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 disputed domain name is confusingly similar to the CORNING Trademarks.

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. This constitutes *prima facie* evidence of no rights.

The Complainant has established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name.

There is no evidence to suggest that the Respondent has been commonly known by the disputed domain name, or that the Respondent is making, or intends to make, a legitimate noncommercial or fair use of the disputed domain name.

The Respondent does not have a legitimate interest or rights in the disputed domain name.

The disputed domain name was registered and is being used in bad faith, since:

- It is well-settled that the practice of typosquatting is by itself evidence of bad faith registration.
- Numerous Panels have held that directing a domain name that is confusing with a third party trademark to a PPC website constitutes bad faith.
- The disputed domain name is virtually identical to the CORNING Trademarks. Accordingly, the disputed domain name is likely to confuse potential consumers into believing that the Respondent is somehow affiliated with, or endorsed by, the Complainant.
- A respondent's actual or constructive knowledge of a complainant's rights in a domain name at the time of registration has been found to reinforce a finding of bad faith.
- Given the Respondent's typosquatting activities, there can be no doubt that the Respondent had actual knowledge of the CORNING Trademarks at the time of registration, thereby supporting a finding of bad faith. At the very least, the Respondent had constructive knowledge of the CORNING trademark by virtue of the CORNING Trademarks.

B. Respondent

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

6. Discussion and Findings

In the absence of a response from the Respondent, the undersigned allows the possibility of considering certain such assertions by the Complainant as it deems reasonable, in terms of Section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

On the other hand, it should be noted that in order to claim the disputed domain name, the Complainant must satisfy the following elements:

- (1) the disputed domain name is identical (1) or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (2) the Respondent should be considered as having no rights or legitimate interests in respect of the disputed domain name; and
- (3) the disputed domain name should be considered as having been registered and being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has accredited rights to the CORNING Trademarks.

The Panel notes that the disputed domain name includes the whole brand "CORNING" which is the main element of the CORNING Trademarks.

The inclusion of the letter "f" to the dominant element CORNING is clearly a "typosquatting case scenario", which inevitably causes it to be confusingly similar with the CORNING Trademarks. See *Tetra Laval Holdings & Finance S.A. v. Tulick Lucy*, WIPO Case No. [D2023-0589](#).

Furthermore, as decided in previous cases, the addition of the Top-Level Domain “.com” is irrelevant to the make a comparison between signs for the purposes of the first element, as set out in Section 1.11 of the [WIPO Overview 3.0](#).

B. Rights or Legitimate Interests

Based on the case file, the Panel finds that the Complainant has established a *prima facie* case that the Respondent has no rights or interests in the disputed domain name and therefore the burden of providing evidence on such rights is transferred to the Respondent, see *Inventio AG v. Shanna Brooks*, WIPO Case No. [D2022-2107](#).

The Respondent did not provide evidence as to whether it was the owner of any rights in terms of the Policy, nor is the Respondent a licensee, *bona fide* user, or has any other title to the name of the disputed domain name. Rather, the disputed domain name is used for PPC links, which is not a *bona fide* use here.

As mentioned above, the Complainant has submitted that the Respondent has no rights or interests with respect to the disputed domain name, and in the absence of a Response, this circumstance was not refuted. The Panel finds for the Complainant on this element.

C. Registered and Used in Bad Faith

In view of the foregoing and in terms of the evidence provided by the Complainant, this Panel considers that the disputed domain name, <corningf.com> was registered and it is being used in bad faith, by way of example but not limited to the following facts:

- As decided in several cases, “typosquatting” is evidence of bad faith, *iuris tantum*. This is, lack of evidence on the contrary points out to bad faith registration and use. See *Confederation Nationale Du Credit Mutuel - CNCM v. Jder Isow*, WIPO Case No. [D2022-3817](#).
- The disputed domain name is intentionally misleading Internet users. Use of the disputed domain name for a PPC webpage is further evidence of bad faith in terms of [WIPO Overview 3.0](#), section 3.5. See *Automobili Lamborghini S.p.A. v. Registration Private, Domains By Proxy, LLC / Cyrus Klaesi*, WIPO Case No. [D2022-1246](#).
- The Respondent’s extensive pattern of abusive domain name registrations is another indication of bad faith registration and use according to [WIPO Overview 3.0](#), section 3.1.1. and *Sodexo v. JH Kang*, WIPO Case No. [DCO2021-0048](#).

The Panel finds that the Respondent registered and used the disputed domain name in bad faith.

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, <corningf.com> be transferred to the Complainant.

/Enrique Ochoa de González Argüelles/
Enrique Ochoa de González Argüelles
Sole Panelist
Date: November 8, 2023