

ADMINISTRATIVE PANEL DECISION

Corning Incorporated v. Mark Trinity
Case No. DCO2023-0090

1. The Parties

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

The Respondent is Mark Trinity, United States.

2. The Domain Name and Registrar

The disputed domain name <corning.com.co> 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 17, 2023. On October 18, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 18, 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 October 20, 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 October 20, 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 October 24, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 13, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 14, 2023.

The Center appointed Evan D. Brown as the sole panelist in this matter on November 23, 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 identifies itself as one of the world's leading innovators in materials science. It owns the mark CORNING for which it enjoys the benefits of registration in multiple jurisdictions, including the United States (e.g., United States Reg. No. 545,056, registered on July 17, 1951). The Complainant has used the mark for many years in many jurisdictions around the world. The Complainant operates a website at the domain name <corning.com> (Annex 2 of the Complaint). According to the Whois information, the disputed domain name was registered on September 20, 2023. As of the filing of the Complaint, the Respondent was not using the disputed domain name for an active website.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical or confusingly similar to the Complainant's trademark; that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and that the disputed domain name was registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (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 disputed domain name has been registered and is being used in bad faith. The Panel finds that all three of these elements have been met in this case.

A. Identical or Confusingly Similar

This first element under the Policy functions primarily as a standing requirement. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7. This element requires the Panel to consider two issues: first, whether the Complainant has rights in a relevant mark; and second, whether the disputed domain name is identical or confusingly similar to that mark.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. See *Advance Magazine Publishers Inc., Les Publications Conde Nast S.A. v. Voguechen*, WIPO Case No. [D2014-0657](#). The Complainant has demonstrated its rights in the CORNING mark by providing evidence of its trademark registrations.

The disputed domain name incorporates the CORNING mark in its entirety. This is sufficient for showing under the Policy that the disputed domain name is identical or confusingly similar to that mark.

Accordingly, the Complainant has established this first element under the policy.

B. Rights or Legitimate Interests

The Panel evaluates this element of the Policy by first looking to see whether the Complainant has made a *prima facie* showing that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. If the Complainant makes that showing, the burden of production of demonstrating rights or

legitimate interests shifts to the Respondent (with the burden of proof always remaining with the Complainant). See [WIPO Overview 3.0](#), section 2.1; *AXA SA v. Huade Wang*, WIPO Case No. D2022-1289.

On this point, the Complainant asserts, among other things, that: (1) the Respondent, as an unauthorized party cannot claim a legitimate interest in the disputed domain name that contains, or is confusing with, the Complainant's CORNING mark, (2) 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 the disputed domain name, in connection with a bona fide offering of goods or services, and (3) 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 Panel finds that the Complainant has made the required *prima facie* showing. The Respondent has not presented evidence to overcome this *prima facie* showing. And nothing in the record otherwise tilts the balance in the Respondent's favor. Accordingly, the Panel finds that the Complainant has established this second element under the Policy.

C. Registered and Used in Bad Faith

On the third element, under paragraph 4(a)(iii) of the Policy, a complainant has to establish that the disputed domain name has been registered and is being used in bad faith by the respondent.

The Complainant's rights in the CORNING mark predate the Respondent's registration of the disputed domain name, which was registered on September 20, 2023. Based on the evidence provided by the Complainant regarding the longstanding and global use and claimed reputation of its CORNING trademark, and the absence of any evidence to the contrary on the part of the Respondent, the Panel finds it more likely than not that the Respondent had actual knowledge of the CORNING mark at the time of registration of the disputed domain name.

The disputed domain name is being passively held by the Respondent as it does not resolve to any web page with any substantive content. UDRP panelists have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put (see [WIPO Overview 3.0](#), section 3.3).

Having regard to the above factors, namely the alleged and undisputed reputation of the Complainant's CORNING mark (confirmed by *Corning Incorporated v. Hulie John*, WIPO Case No. [D2023-3637](#) and *Corning Incorporated v. Chen Jie Huan*, WIPO Case no. [D2022-3137](#)) and the Respondent's failure to submit a Response or to provide any evidence of actual or contemplated good-faith use, the Panel finds that the passive holding of the disputed domain name does not prevent a finding of bad faith.

Furthermore, the fact that the Respondent has not participated in these proceedings and leaves the Complainant's allegations un rebutted, supports a finding that the disputed domain name was registered and is being used in bad faith (see also *Confederation Nationale du Credit Mutuel v. WhoisGuard Protected, WhoisGuard, Inc. / Jean Duca*, WIPO Case No. [D2021-0977](#); *TTT Moneycorp Limited v. Diverse Communications*, WIPO Case No. [D2001-0725](#); *The Commissioners for HM Revenue and Customs v. Calvin Bonsu*, WIPO Case No. [D2020-1075](#)).

In light of the above, the Panel finds that the Respondent has registered and is using the disputed domain name in bad faith. The Complainant has thus satisfied the third element of paragraph 4(a) 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.com.co> be transferred to the Complainant.

/Evan D. Brown/

Evan D. Brown

Sole Panelist

Date: December 7, 2023