ARBITRATION
AND
MEDIATION CENTER

WIPO
WORLD
INTELLECTUAL PROPERTY
ORGANIZATION

ADMINISTRATIVE PANEL DECISION
Corning Incorporated v. lost boy
Case No. D2025-0442

1. The Parties

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

The Respondent is lost boy, United States.

2. The Domain Name and Registrar

The disputed domain name <coirning.com> (the "Disputed Domain Name") is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 4, 2025. On February 4, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On February 5, 2025, 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 February 6, 2025, 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 February 12, 2025.

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 February 13, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 5, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 11, 2025.

The Center appointed Lynda M. Braun as the sole panelist in this matter on March 17, 2025. 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, a New York corporation that is publicly traded on the New York Stock Exchange, is a leading innovator 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 over 325 trademark registrations worldwide for trademarks comprised of, or containing, the CORNING mark. The CORNING trademarks enjoy widespread recognition, have generated significant goodwill and have become famous. The Complainant has enjoyed tremendous success, since, for example, in 2018 alone, the Complainant generated USD 11.29 billion in revenue.

The Complainant owns various trademark registrations with the United States Patent and Trademark Office ("USPTO"), including, but not limited to the following: CORNING, United States Trademark Registration No. 618,649, registered on January 3, 1956; CORNING, United States Trademark Registration No. 918,421, registered on August 17, 1971; and CORNING, United States Trademark Registration No. 1,682,729, registered on April 14, 1992. The Complainant also owns registered trademarks in other jurisdictions worldwide, including in Canada, China and Australia.

The aforementioned registered trademarks will hereinafter collectively be referred to as the "CORNING Mark".

The Complainant owns the domain name <corning.com>, which resolves to its official website at "www.corning.com".

The Disputed Domain Name was registered on January 27, 2025, and resolves to an error landing page that states, "This site can't be reached. coirning.com's DNS address could not be found." In addition, the Respondent impersonated the Complainant by using the email address incorporating the Disputed Domain Name as part of a phishing scheme to send to unsuspecting clients of the Complainant, directing them to remit payments that were purportedly owed. A screenshot of one such email was attached as an Annex to the Complaint.

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 the Complainant's CORNING Mark, as it includes the CORNING Mark in its entirety, albeit misspelled with an "i" following the "o", and then followed by the generic Top-Level Domain ("gTLD") ".com";

- the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because the Disputed Domain Name resolved to a passive error landing page; the Complainant has not authorized or otherwise permitted the Respondent to register a domain name containing the CORNING Mark; the Respondent impersonated the Complainant and was engaged in an email phishing scheme in which the Respondent sent emails to unsuspecting clients of the Complainant, requesting overdue payments for services allegedly rendered; and the Respondent has never been commonly known by the CORNING Mark or any similar name; and

- the Disputed Domain Name was registered and was used in bad faith because, among other things, the Respondent used the Disputed Domain Name to impersonate the Complainant's employee and send fraudulent emails to clients of the Complainant to request overdue payments as part of a phishing scheme; the Respondent engaged in typosquatting, which is prima facie evidence of bad faith; and the Respondent had actual knowledge of the Complainant and the CORNING Mark when it registered the Disputed Domain Name.

The Complainant seeks the transfer of the Disputed Domain Name from the Respondent to the Complainant in accordance with paragraph 4(i) of the Policy.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy requires that the Complainant prove the following three elements in order to prevail in this proceeding:

(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 was registered and is being used in bad faith.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires a two-fold inquiry: a threshold investigation into whether a complainant has rights in a trademark, followed by an assessment of whether the disputed domain name is identical or confusingly similar to that trademark. The Panel concludes that in the present case, the Disputed Domain Name is confusingly similar to the CORNING Mark, differing only by the misspelling of the mark by adding an "i" after the "o".

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. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), section 1.7.

It is uncontroverted that the Complainant has established rights in the CORNING Mark based on its approximately 165 years of use as well as its registered trademarks for the CORNING Mark in the United States and other jurisdictions worldwide. The registration of a mark satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case. As stated in section 1.2.1 of the WIPO Overview 3.0, "[w]here the complainant holds a nationally or regionally registered trademark or service mark, this prima facie satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case". The Panel finds that the Complainant satisfied the threshold requirement of having trademark rights in the CORNING Mark.

The Disputed Domain Name consists of the CORNING Mark in its entirety, albeit misspelled with the letter "i" after the "o" in the trademark. Such a minor modification to a disputed domain name is commonly referred to as "typosquatting" and seeks to wrongfully take advantage of errors by a user in typing a domain name into a web browser. The misspelling of "corning" to "coirning" does not prevent a finding of confusing similarity to the CORNING Mark. See WIPO Overview 3.0, section 1.9: "A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element"; see also *Express Scripts, Inc. v. Whois Privacy Protection*

Service, Inc. / Domaindeals, Domain Administrator, WIPO Case No. D2008-1302; *Singapore Press Holdings Limited v. Leong Meng Yew*, WIPO Case No. D2009-1080.

Finally, the addition of a gTLD such as ".com" in a domain name is a technical requirement. Thus, it is well established that, as here, such element may typically be disregarded when assessing whether a domain name is identical or confusingly similar to a trademark. See *Proactiva Medio Ambiente, S.A. v. Proactiva*, WIPO Case No. D2012-0182 and WIPO Overview 3.0, section 1.11.1. Thus, the Panel finds that the Disputed Domain Name is confusingly similar to the Complainant's CORNING Mark.

Based on the available record, the Panel finds that 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 that 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.

In this case, given the facts as set out above, the Panel finds that the Complainant has made out a prima facie case. The Respondent has not submitted any arguments or evidence to rebut the Complainant's prima facie case. Furthermore, the Complainant has not authorized, licensed or otherwise permitted the Respondent to use its CORNING Mark. Nor does the Complainant have any type of business relationship with the Respondent. There is also no evidence that the Respondent is commonly known by the Disputed Domain Name or by any similar name, nor any evidence that the Respondent was using or making demonstrable preparations to use the Disputed Domain Name in connection with a bona fide offering of goods or services. See Policy, paragraph 4(c).

Further, based on the use made by the Respondent of the Disputed Domain Name to impersonate the Complainant and configure emails to perpetuate a phishing scheme does not confer rights or legitimate interests on the Respondent. See WIPO Overview 3.0, section 2.13.1 ("Panels have categorically held that the use of a domain name for illegal activity (*e.g.*, the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent."). See also *CMA CGM v. Diana Smith*, WIPO Case No. D2015-1774 (finding that the respondent had no rights or legitimate interests in the disputed domain name, holding that "such phishing scam cannot be considered a bona fide offering of goods or services nor a legitimate noncommercial or fair use of the Domain Name"). This is precisely what occurred here, where the Respondent sent fraudulent emails created from the Disputed Domain Name to impersonate the Complainant to request payments allegedly owed by the Complainant's clients.

In sum, the Panel concludes that the Complainant has established an unrebutted prima facie case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name. The Panel finds that the Respondent is using the Disputed Domain Name for commercial gain with the intent to mislead and defraud third parties associated with the Complainant by incorporating the Disputed Domain Name into fraudulent emails sent by the Respondent in the name of an actual employee of the Complainant. Such use cannot conceivably constitute a bona fide offering of a product or service within the meaning of paragraph 4(c)(i) of the Policy. The Panel concludes that nothing on the record before it would support a finding that the Respondent is making a legitimate noncommercial or fair use of the Disputed Domain Name.

Based on the available record, the Panel finds that 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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith. The Panel finds that based on the record, the Complainant has demonstrated the existence of the Respondent's bad faith registration and use of the Disputed Domain, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. WIPO Overview 3.0, section 3.2.1.

First, based on the circumstances here, the Panel concludes that the Respondent's registration and use of the Disputed Domain Name had been done for the specific purpose of trading on the name and reputation of the Complainant and its CORNING Mark. See *Madonna Ciccone, p/k/a Madonna v. Dan Parisi and "Madonna.com"*, WIPO Case No. D2000-0847 ("[t]he only plausible explanation for Respondent's actions appears to be an intentional effort to trade upon the fame of Complainant's name and mark for commercial gain").

Second, panels have held that the use of a domain name for illegal activity constitutes bad faith. WIPO Overview 3.0, section 3.4. Having reviewed the record, the Panel finds that the Respondent's registration and use of the Disputed Domain Name constitutes bad faith under the Policy due to the Respondent's reported use of an email phishing scheme in which the Respondent impersonated the Complainant and sent fraudulent emails to the Complainant's clients, requesting overdue payments. See WIPO Overview 3.0, section 3.1.4 (use of a domain name for per se illegitimate activity such as phishing or impersonation/passing off is considered evidence of bad faith). See also *Stichting BDO v. Contact Privacy Inc. Customer 7151571251/gregory Motto*, WIPO Case No. D2022-2023 (finding the phishing scheme and use of an email address incorporating the disputed domain name to fraudulently obtain payment of invoices to be evidence of bad faith pursuant to paragraph 4(b)(iv) of the Policy for intentionally misleading and confusing third parties into believing that the Respondent was associated and/or affiliated with the Complainant). Thus, use of a domain name for illegal activity demonstrates the Respondent's bad faith and is precisely the type of conduct that the Policy aims to proscribe.

Third, the Panel finds that the Respondent had actual knowledge of the Complainant and its rights in the CORNING Mark when registering the Disputed Domain Name, emblematic of bad faith registration and use. It strains credulity to believe that the Respondent did not know of the Complainant or its CORNING Mark, as evidenced by the Respondent's use of the entirety of the CORNING Mark in the Disputed Domain Name, albeit with a minor misspelling. Thus, the Panel finds that in the present case, the Respondent had the Complainant's CORNING Mark in mind when registering and using the Disputed Domain Name.

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 <coirning.com> be transferred to the Complainant.

/Lynda M. Braun/
Lynda M. Braun
Sole Panelist
Date: March 26, 2025