

ADMINISTRATIVE PANEL DECISION

Corning Incorporated v. Name Redacted

Case No. D2023-0452

1. The Parties

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

The Respondent is Name Redacted.¹

2. The Domain Name and Registrar

The disputed domain name <cornjng.com> is registered with Wild West Domains, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 31, 2023. On February 1, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 3, 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 February 7, 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 February 21, 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 February 27, 2023. In accordance with the Rules,

¹ The Respondent appears to have used the name of a third party when registering the disputed domain name. Considering the potential identity theft, the Panel has redacted Respondent’s name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding and has indicated Annex 1 to this decision shall not be published due to the circumstances of this case.

paragraph 5, the due date for Response was March 19, 2023. The Respondent did not submit a response. The Center received an email from a third party on March 16, 2023. Accordingly, the Center notified the parties that it would proceed to panel appointment on March 24, 2023.

The Center appointed William F. Hamilton as the sole panelist in this matter on April 11, 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 well-known company that has been a leading innovator in material science and related products for over 165 years. Recent annual revenues for the Complainant exceeded USD 11.29 billion.

The Complainant owns over three hundred twenty-five trademark registrations worldwide for trademarks comprised of, or containing, the mark CORNING, hereinafter referred to as the "Mark," dating back to the early twentieth century, such as United States of America trademark CORNING registration number 618649, registered on January 3, 1956. Exhibit 3 to the amended Complaint.

The disputed domain name was registered on November 15, 2022. The disputed domain does not resolve to an active website.

5. Parties' Contentions

A. Complainant

The Complainant asserts the disputed domain name is confusingly similar to the Mark because the disputed domain name is composed by replacing the letter "i" in the Mark with the letter "j".

The Complainant asserts that the Respondent does not have rights or legitimate interests in the disputed domain name, that the Complainant never authorized the Respondent to use the disputed domain name, that the Respondent is not generally known by the disputed domain name, never operated a business under the disputed domain name, has not advertised the disputed domain name, and never engaged in any *bona fide* commercial activity in connection with the disputed domain name.

The Complainant asserts that the Respondent knew or should have known of the Mark with a reasonable investigation and registered and used the disputed domain name in bad faith.

B. Respondent

The Respondent did not reply to the Complainant's contentions. On March 16, 2023, the Center received email communication from a third-party asserting receipt of the Center's written communication but claiming no awareness of or connection to the disputed domain name.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed the Complainant must satisfy the Panel that:

- (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

The Panel finds that the disputed domain name is confusingly similar to the Complainant's Mark.

The disputed domain name is confusingly similar to the Complainant's Mark because the disputed domain name essentially adopts the Mark in its entirety only changing the letter "i" in the Mark to the letter "j". The slight change in spelling of a protected trademark in a disputed domain name does not prevent a finding of confusing similarity. A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered to be confusingly similar to the relevant mark for purposes of the first element. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.9.

The Top-Level Domain of the disputed domain name, in this case ".com", may be disregarded for the purposes of assessment under the first element, as it is viewed as a standard registration requirement. See [WIPO Overview 3.0](#), section 1.11.1. *Monster Energy Company, a Delaware Corporation v. J.H.M. den Ouden*, WIPO Case No. [D2016-1759](#).

The Complainant has met its burden under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

The Complainant has specifically disavowed providing the Respondent with permission to use the disputed domain name or the Mark. There is no evidence that the Respondent has conducted any *bona fide* business under the disputed domain name or is commonly known by the disputed domain name. The Complainant has established a *prima facie* case in its favor, which shifts the burden of production on this point to the Respondent.

The Respondent, however, has failed to come forth with any evidence showing any rights or legitimate interests in the disputed domain name. The disputed domain name appears never to have resolved to an active website, and the disputed domain name will likely confuse unsuspecting Internet users into believing the disputed domain name will resolve to a website sponsored or affiliated with the Complainant.

The facts and circumstances presented to the Panel demonstrate that the Respondent does not have any rights or legitimate interests in the disputed domain name. The Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Under paragraph 4(b) of the Policy, bad faith may be established by any one of the following non-exhaustive scenarios:

- (i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or
- (ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

- (iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line 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 Panel finds that the disputed domain name was registered and is being used in bad faith.

The disputed domain name only differs from the Mark by replacing the letter "i" in the Mark with the letter "j". The letters "i" and "j" are located adjacent to one another on the qwerty keyboard. In addition to the proximity of the letters "i" and "j" on the keyboard, the letter "j" is visually similar to the letter "i" because there is a dot over the letter "j" and the letter "j" contains a prominent vertical line component. These circumstances collectively create an inference of the Respondent's intent to trick and deceive unsuspecting Internet users into believing that the disputed domain name would resolve to a website sponsored or affiliated with the Complainant. The Panel finds that the Respondent was aware of the Complainant's well-known Mark when registering and using the disputed domain name to attract unsuspecting Internet users to the Respondent's website for potential commercial gain.

The inactive status of the disputed domain name is irrelevant as the continued registration of the disputed domain name constitutes a threat hanging over the Complainant. Internet visitors may incorrectly draw negative inferences about the Complainant when seeing that the disputed domain name does not resolve to an inactive website. Moreover, it appears that the Respondent provided fraudulent information upon registration of the disputed domain name, illustrating the Respondent's bad faith conduct as regards the disputed domain name. Under the circumstances of this case and the doctrine of passive holding, the fact that the disputed domain name does not currently resolve to an active website does not prevent a finding of bad faith. See [WIPO Overview 3.0](#), sections 3.3 and 3.2.1.

The Complainant has met its burden under 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, <cornjng.com>, be transferred to the Complainant.

/William F. Hamilton/

William F. Hamilton

Sole Panelist

Date: April 20, 2023