

ADMINISTRATIVE PANEL DECISION

Corning Incorporated v. Shoucheng Hu

Case No. D2023-0455

1. The Parties

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

The Respondent is Shoucheng Hu, China.

2. The Domain Name and Registrar

The disputed domain name <corningglassworks.com> is registered with Hong Kong Juming Network Technology Co., Ltd (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 and contact information in the Complaint. The Center sent an email communication to the Complainant on February 3, 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 3, 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 6, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 26, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 27, 2023.

The Center appointed Knud Wallberg as the sole panelist in this matter on March 9, 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 leading innovator in materials science, with a more than 165-year track record inventions and the Complainant specializes *inter alia* in specialty glass. Until 1989 the Complainant's name was Corning Glass Works.

The Complainant is the owner of over 325 trademark registrations worldwide for trademarks comprised of, or containing, CORNING including United States Registration no. 618649 registered on January 3, 1956 for goods in classes 9, 19 and 21 and European Union Registration no. 016966822, registered on November 6, 2017 for goods in classes 7, 9, 10, 11, 12, 19 and 21.

The Complainant also operates a website at the domain name <corning.com>.

The disputed domain name was registered on September 28, 2022. At the time of filing of the Complaint the disputed domain name ultimately resolved to a website that contained a link to a website offering gambling services.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to the Complainant's CORNING mark, as it contains this mark in its entirety, with the addition of the term "glassworks" and the generic Top-Level Domain ("gTLD") ".com".

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name. 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, rather on the contrary since the disputed domain name resolves to a website featuring a link to a gambling website.

The Complainant finally contends that the disputed domain name was registered and is being used in bad faith. The Respondent must thus have been well aware of the Complainant's distinctive trademark and its business activities when registering the disputed domain name. The disputed domain name is being used for a website that contains a link to a gambling website, and the aim is clearly to attract Internet users to the website for commercial gain, by creating a likelihood of confusion with the trademarks, as to the source, sponsorship, affiliation or endorsement of the website to which the disputed domain name resolves. In addition, the Complainant invokes the fact that the Respondent has registered a number of other domain names that incorporate third party trademarks.

B. Respondent

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

6. Discussion and Findings

According to paragraph 15(a) of the Rules the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Paragraph 4(a) of the Policy directs that a complainant must prove each of the following:

- (i) that the domain name registered by the respondent is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) that the respondent has no rights or legitimate interests in respect of the domain name; and
- (iii) that the domain name has been registered and is being used in bad faith.

Paragraph 4(a) of the Policy states that the burden of proving that all these elements are present lies with the Complainant. At the same time, in accordance with paragraph 14(b) of the Rules, if a party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, the Rules, or any request from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate.

A. Identical or Confusingly Similar

The Panel finds that the disputed domain name is confusingly similar (in the sense of the Policy) to the Complainant's registered trademark because it contains the Complainant's registered trademark CORNING in its entirety with the addition of "glassworks" as suffix. The gTLD ".com" is a standard registration requirement and as such is disregarded under the first element confusing similarity test. See Section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Panel finds that the conditions in paragraph 4(a)(i) of the Policy are therefore fulfilled in relation to the disputed domain name.

B. Rights or Legitimate Interests

It follows from the information that is included in the Complaint, that the Complainant has not licensed or otherwise permitted the Respondent to use its trademark in any way.

Further, given the circumstances of this case, the Panel is of the opinion that the Complainant has established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent has not rebutted this, and the way the Respondent has used the disputed domain name does not support a finding of rights or legitimate interests.

Consequently, the Panel finds that the conditions in paragraph 4(a)(ii) of the Policy are also fulfilled.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy requires the Complainant to prove both registration and use of the disputed domain name in bad faith. Paragraph 4(b) of the Policy provides examples of circumstances, which shall be evidence of registration and use in bad faith:

- (i) circumstances indicating that the holder has registered or has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration 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 holder's documented out-of-pocket costs directly related to the domain name; or
- (ii) the holder 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 holder has engaged in a pattern of such conduct; or

- (iii) the holder has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, the holder has intentionally attempted to attract, for commercial gain, Internet users to the holder'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 holder's website or location or of a product or service on the holder's website or location.

Accordingly, for the Complainant to succeed, the Panel must be satisfied that the disputed domain name has been registered and is being used in bad faith.

Given the circumstances of the case, in particular the distinctive nature and long-time use of the Complainant's trademark CORNING, it is inconceivable to the Panel in the current circumstances that the Respondent registered the disputed domain name without prior knowledge of the Complainant and the Complainant's marks. Further, the Panel finds that the Respondent could not have been unaware of the fact that the disputed domain name it chose could attract Internet users in a manner that is likely to create confusion for such users.

The Panel therefore finds that the disputed domain name was registered in bad faith.

Also, the Respondent has used the disputed domain name actively for a page that contains a link to a gambling website. It is thus obvious to the Panel that the Respondent uses the disputed domain name in bad faith by intentionally attempting to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website. See section 3.1.4 of the [WIPO Overview 3.0](#). The fact that the named Respondent has registered multiple trademark-abusive domain names corresponding to the distinct marks of individual brand owners supports this finding, *cf.* section 3.1.2 of the [WIPO Overview 3.0](#).

Noting that the disputed domain name incorporates the Complainant's distinctive trademark, that no response has been filed, that there appears to be no conceivable good faith use that could be made by the Respondent of the disputed domain name, and considering all the facts and evidence, the Panel finds that the requirements of paragraph 4(a)(iii) of the Policy are also fulfilled in this case.

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 <corningglassworks.com> be transferred to the Complainant.

/Knud Wallberg/

Knud Wallberg

Sole Panelist

Date: March 22, 2023