

ADMINISTRATIVE PANEL DECISION

Corning Incorporated v. Linus Sweedha

Case No. D2024-5134

1. The Parties

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

The Respondent is Linus Sweedha, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <corning.tech> is registered with West263 International Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 12, 2024. On December 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 16, 2024, 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 December 17, 2024, 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 December 20, 2024.

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”).

The Respondent sent an email communication to the Center on December 17, 2024, expressing a willingness to settle. Following the Center’s possible settlement email, the Complainant confirmed their intention to proceed with the proceedings.

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on December 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 12, 2025. The Response was filed with the Center on December 27, 2024.

The Center appointed Warwick A. Rothnie as the sole panelist in this matter on January 13, 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 is a corporation headquartered in the United States manufacturing a range of products. According to Annexure D to the Response, the Complainant has a history of more than 170 years innovating in materials science. Products developed by the Complainant include for example Pyrex® glass, Gorilla Glass®, optical fibre.

The Complaint includes evidence that the Complainant had revenues of just under USD 9.4 billion in 2016, USD 10.1 billion in 2017, and USD 11.3 billion in 2018.

Also according to Annexure D to the Response, the Complainant has almost 19,000 employees and, when the screenshot was taken, some 198,887 followers of its LinkedIn page.

It promotes its services and products from the website at “www.corning.com”.

The Complaint includes evidence that the Complainant owns numerous registrations for CORNING as a trademark around the world. The Complaint includes print outs of a selection of these and a spreadsheet listing some 325 registrations. Some of the 325 registrations are for trademarks with additional elements such as a design or words such as “Gorilla Glass” or “Corning Ware”. Some are for state registrations in the United States. Given the Respondent’s location in the United Kingdom, it is sufficient to note by way of example:

- (1) Registered Trademark No UK00000543874, CORNING, which has been registered with effect from August 18, 1933 in respect of glass and reflectors for lamps and lanterns in International Class 11;
- (2) Registered Trademark No UK00000762061, CORNING, which has been registered with effect from February 4, 1957 in respect of lenses and glass parts and fittings for a range of scientific and electrical apparatus in International Class 9;
- (3) Registered Trademark No UK00000992982, CORNING, which has been registered with effect from June 1, 1972 in respect of electronic resistors and capacitors in International Class 9; and
- (4) Registered Trademark No UK00916966822, CORNING, which has been registered with effect from July 7, 2017 in respect of a wide range of goods in International Classes 7, 9, 10, 11, 12, 19, and 21.

Apparently, for some time until July 31, 2024, the Complainant was the holder of the disputed domain name. During this time the disputed domain name redirected to the Complainant’s website at “www.corning.com”.

In circumstances which the Complainant has not sought to explain, the registration lapsed and, after the redemption and pending delete phases, the disputed domain name became available for registration on October 6, 2024.

The Respondent became the registrant of the disputed domain name on November 10, 2024. (The Respondent has not disclosed whether that was through an auction process or otherwise.) As the

Respondent points out, however, it was some 35 days after the disputed domain name became available for registration.

The Respondent offers the disputed domain name for sale through GoDaddy for USD 4,888.

The Respondent says he has been a domain name investor for over 10 years investing in “brandable as well as generic keyword domains in various niches.” According to the Response, the Respondent currently holds over 3,000 domain names. The Amendment to the Complaint includes evidence obtained through a reverse domain name search that the Respondent holds at least 77 other domain names

On the same day the Respondent registered the disputed domain name, the Respondent also registered another 29 domain names including <burgundy.tech>, <smite.tech>, <360vr.tech>, <lame.tech>, <multipack.tech>, <homage.tech>, <rieder.tech>, <lowrider.tech>, <winehouse.tech>, <postproduction.tech>, <payslip.tech>, <orig.tech>, <peppy.tech>, <firefish.tech>, <purl.tech>, <rolfing.tech>, and <accredited.tech>.

5. Discussion and Findings

Paragraph 4(a) of the Policy provides that in order to divest the Respondent of a disputed domain name, the Complainant must demonstrate each of the following:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (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.

Paragraph 15(a) of the Rules directs the Panel to decide the Complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.

A. Identical or Confusingly Similar

The first element that the Complainant must establish is that the disputed domain name is identical with, or confusingly similar to, the Complainant's trademark rights.

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. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[WIPO Overview 3.0](#)”), section 1.7.

The Complainant has proven ownership of numerous trademark registrations for CORNING around the world (for purposes of the Policy, the Panel does not include the state registrations in the United States in that conclusion).

The disputed domain name is identical to the Complainant's trademark (disregarding the .tech Top-Level Domain (TLD) as a functional aspect of the domain name system). [WIPO Overview 3.0](#), section 1.11.

The Respondent disputes a finding of confusing similarity on grounds of alleged descriptiveness or lack of distinctiveness of the sign “corning”. Those arguments, however, misunderstand the nature of the inquiry at this stage, which simply requires a visual and aural comparison of the disputed domain name to the proven trademark. This test is narrower than and thus different to the question of “likelihood of confusion” under trademark law. Therefore, questions such as the scope of the trademark rights, the geographical location of

the respective parties, the date they were acquired and other considerations that may be relevant to an assessment of infringement under trademark law are not relevant at this stage. Such matters, if relevant, may fall for consideration under the other elements of the Policy. See e.g., [WIPO Overview 3.0](#), section 1.7.

Accordingly, the Panel finds that the Complainant has established that the disputed domain name is identical with the Complainant's trademark and the requirement under the first limb of the Policy is satisfied.

B. Rights or Legitimate Interests

The second requirement the Complainant must prove is that the Respondent has no rights or legitimate interests in the disputed domain name.

Paragraph 4(c) of the Policy provides that the following circumstances can be situations in which the Respondent has rights or legitimate interests in a disputed domain name:

- (i) before any notice to [the Respondent] of the dispute, [the Respondent's] use of, or demonstrable 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; or
- (ii) [the Respondent] (as an individual, business, or other organization) has been commonly known by the [disputed] domain name, even if [the Respondent] has acquired no trademark or service mark rights; or
- (iii) [the Respondent] is making a legitimate noncommercial or fair use of the [disputed] domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

These are illustrative only and are not an exhaustive listing of the situations in which a respondent can show rights or legitimate interests in a domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible 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. 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.

The Respondent registered the disputed domain name after the Complainant began using the trademark and also after the Complainant had registered its trademark.

The Complainant states that it has not authorised the Respondent to use the disputed domain name. Nor is the Respondent affiliated with it.

The disputed domain name is not derived from the Respondent's name. Nor is there any suggestion of some other name by which the Respondent is commonly known from which the disputed domain name could be derived. The Respondent does not hold any trademarks for the disputed domain name.

The Panel does not have evidence of the price the Respondent paid to register the disputed domain name. The price at which the disputed domain name is being offered for sale, however, appears to be in excess of the typical out-of-pocket costs for registering a domain name in the .tech TLD which appear to be in the range between USD 30 and USD 100.

These matters, taken together, are sufficient to establish a *prima facie* case under the Policy that the Respondent has no rights or legitimate interests in the disputed domain name.

The Respondent says he was unaware of the Complainant and its trademark when he registered the disputed domain name.

As noted above, the Respondent states he is a reseller of “brandable” and generic domain names and currently has a portfolio of 3,000 domain names.

The Respondent contends that CORNING is not distinctive and the Complainant does not have exclusive rights to the word. The Respondent points out that “corning” is a dictionary word (the Panel notes in English it means a process for curing meat). Further, the Respondent provides evidence from Ancestry.com that 94,000 people have the surname “corning” and, according to OpenCorporate, over 1,500 companies have “corning” in their name. There are also 10 cities named “Corning”.

Accordingly, the Respondent contends he has a legitimate interest in acquiring and selling domain names which incorporate common and generic terms.

In support of his contentions, the Respondent refers to the decision in a previous proceeding: *Corning Incorporated v. Domain Admin, HugeDomains.com*, WIPO Case No. [D2021-0549](#) in which a three-member panel found (amongst other things):

“while Complainant may enjoy strong rights in the CORNING mark in its zone of interest, the evidence suggests that Complainant’s rights in CORNING may be limited to that zone and that Complainant is not everything ‘Corning’.”

and

“The mere fact that Respondent is a domain name reseller or investor does not in and of itself create a lack of rights or legitimate interests. Nor does Respondent’s attempt to sell the disputed domain name by itself establish that Respondent sought to exploit the trademark value of Complainant’s CORNING mark. To be sure, investing and reselling domain names is a legitimate business when such is not being done to take advantage of the trademark value associated with a particular term.”

The Panel is not bound by the decisions of prior panels. However, consistency is an important goal to ensure predictability and fairness.

The Panel further notes that, according to the “Search WIPO Cases and WIPO Panel Decisions” function,¹ the Complainant has been the complainant in at least 47 decisions under the Policy including 35 decisions since the *HugeDomains.com* decision mentioned above. In those decisions, the panels accepted that the Complainant’s trademark was well-known or famous. However, only one of those 35 decisions involved a substantive response by the respondent: *Corning Incorporated v. Gabriel Joseph, Clearer Technology*, WIPO Case No. [D2022-3136](#). That decision also resulted in denial of the complaint but on grounds that the domain name was being used as a legitimate criticism site. That is not an issue in the present case.

From the published decision, there appear to be similarities between the *HugeDomains.com* case and the present decision. For example, the respondent in the earlier case was offering the domain name for sale for USD 5,195, slightly more than the present case. An important difference in the present case, however, is that the “HugeDomains.com” decision concerned the domain name <corming.com> (where the letter “n” was replaced with “m”) while the present case concerns a domain name identical to the Complainant’s trademark. The difference is facially slight but does increase the risk of false, implied affiliation.

In the present case, the Panel also has evidence that the Complainant has almost 200,000 followers on LinkedIn in addition to the sheer scale of its operations.

¹ <https://www.wipo.int/amc/en/domains/search/>.

The Panel accepts that registering a domain name for the purposes of resale can be a legitimate activity under the Policy. It has also long been recognised under the Policy that the fact that a domain name consists of a dictionary term or may be descriptive does not by itself automatically confer rights or legitimate interests on the respondent. Typically, a respondent claiming rights or legitimate interests on such a basis must show that the disputed domain name is genuinely used for the dictionary or descriptive meaning or, at least, demonstrably intended for such use. [WIPO Overview 3.0](#), section 2.10.

Plainly, the disputed domain name is not being used for its dictionary or descriptive meaning in the present case, as it is merely being offered for sale, nor has the Respondent demonstrated that it is intended for such use. *Supermac's (Holdings) Limited v. Domain Administrator, DomainMarket.com*, WIPO Case No. [D2018-0540](#).

In these circumstances, the Panel does not find that the Respondent has rebutted the *prima facie* case established by the Complainant. Accordingly, the Complainant has established the second requirement under the Policy.

C. Registered and Used in Bad Faith

Under the third requirement of the Policy, the Complainant must establish that the disputed domain name has been both registered and used in bad faith by the Respondent: see e.g., *Group One Holdings Pte Ltd v. Steven Hafto*, WIPO Case No. [D2017-0183](#).

Paragraph 4(b) identifies situations which may demonstrate that registration or use of a disputed domain name was not in bad faith under the Policy:

For the purposes of paragraph 4(a)(iii), the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of [the disputed] domain name in bad faith:

- (i) circumstances indicating that [the Respondent] has registered or [the Respondent has] acquired the [disputed] domain name primarily for the purpose of selling, renting, or otherwise transferring the [disputed] 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 Respondent's] documented out-of-pocket costs directly related to the [disputed] domain name; or
- (ii) [the Respondent has] registered the [disputed] 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 [disputed] domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the [disputed] domain name, [the Respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the Respondent's] web site 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] web site or location.

The instances of bad faith set out in paragraph 4(b) of the Policy are examples only, intended to illustrate types of conduct which is caught by the Policy. See *Do The Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#).

As noted above, the Respondent states that he was unaware of the Complainant or its trademark. This may, or may not, be true subjectively.

One reason to question the claim is the Respondent's reliance on the decision in *Corb Corporation v. Zest* NAF Claim Number: FA0107000098441 where it was said:

"The Panel holds that a domain registrant who knows a domain name has been abandoned should be more confident, not less so, that there is no competing trademark claim relating to the domain name; a person in the position of Respondent should be more confident than a registrant who selects a previously unregistered name."

There is an element of 'finders keepers, losers weepers' in this decision. We believe that is as it should be.

"In sum, where a party registers a lapsed domain name, and it is not attempting to use the name to compete with the mark holder or disrupt its business, we believe that ordinarily the trademark holder should be denied relief, whether the mark is a common law or registered mark, whether the mark is 'strong' or 'weak.'"

First, to the extent the Respondent contends the present case is the same as the referenced decision, that suggests that the Respondent did in fact know the Complainant was previously the registrant.

Secondly (and more generally), the Panel does not accept the proposition that, by allowing a domain name registration to lapse, a trademark owner has abandoned its trademark or the right to prevent abusive domain name registrations. The registration of a domain name and the ownership of a trademark are two different things. If possessed of knowledge that someone was previously the registrant of the disputed domain name, a prospective purchaser is on notice that there may well be someone with superior trademark rights. In *Supermac's*, above, the panel explained:

"Registration of a domain name in that circumstance [drop-catching] is not the same as 'ordinary' registration of a domain name (i.e., registration of a domain name which is not held by another person immediately prior to registration). Where registration occurs through drop-catching, the registrant is objectively aware that another person held the registration immediately prior. This, in effect, puts the registrant on notice that another person (the immediately prior registrant) may have rights in a trademark to which the domain name is identical or confusingly similar. Where, as in this case, the drop-catching registrant fails to take any steps to determine if such rights exist, then the registrant is taking the risk that such rights do exist. Where such rights do exist, where the value of the domain name derives primarily from those rights, and where the registrant's only meaningful use of the domain name is to offer it for sale, then the registrant is liable to be considered as having registered the domain name primarily for the purpose of selling it to the person who has those rights."

It is not clear that this case involves "drop-catching" but the proposition that a trademark owner does not lose its rights where a corresponding domain name lapses is nonetheless applicable.

Moreover, as the panel in *Supermac's*, above, explained, whether the Respondent's good faith or otherwise falls to be determined under the Policy objectively.

First, the Respondent relies on his registration of 30 domain names said to be descriptive on the same day to demonstrate his good faith. Not all 30 domain names are in evidence but, of the names in evidence, some are obviously descriptive. For example, <multipack.tech>, <winehouse.tech>, <postproduction.tech>, and <payslip.tech>. Apart from the disputed domain name, others are less obviously so. An example is <rieder.tech> which a Google search shows "rieder" is the name of "an internationally recognized concrete producer" but also the surname of a Swiss-born football player in the Bundesliga.

In its Amendment to the Complaint, following the disclosure of the Respondent's details through the Registrar's verification, the Complainant identified some 77 other domain names registered by the Respondent and claimed a number reflected instances of misappropriation of third party trademarks. The Complainant identified in support of this claim <aerodisc.com>, <compuplan.com>, <consultrend.com>, <elfbarvapes.com>, <enginetics.com>, <evoscent.com>, <hormac.com>, and <ssensfood.com>.

The Respondent has not disputed registration of these nor that they are, or are based on, trademarks. In any event, they do not appear to the Panel to be dictionary words or purely descriptive and the Respondent has not explained how he came to register them.

In this context, it is significant that the Respondent has not exposed how he identifies domain names for registration. A word like “payslip” for example is in widespread use and likely to be familiar to many if not most English speakers. On the other hand, “corning”, while recognized in the dictionaries, is an old but specialised process and in the Panel’s experience likely to be familiar to limited circles only.

Further, if the Respondent was aware when registering the disputed domain name that “corning” is according to Ancestry.com the surname of some 94,000 people, the name of 10 cities, and in or part of the name of some 1,500 companies, it seems likely that awareness resulted from research. If the Respondent engaged in research to ascertain those matters, it is highly unlikely that the Respondent would not also have ascertained “corning” is the name of a very substantial corporation which predominates the results generated by a Google search on “corning”. In that case, it is difficult to resist the conclusion that that knowledge would have influenced the Respondent’s decision to secure the disputed domain name and the price the Respondent offered the disputed domain name for sale.

On the other hand, if the Respondent was not aware of these matters, the Respondent can hardly rely on them to justify registration of the disputed domain name. In that case, the Respondent effectively would have decided to run the risk that the disputed domain name would conflict with another’s trademark, which raises the considerations discussed in the context of registration and use in bad faith in [WIPO Overview 3.0](#), sections 3.2.1 and 3.2.3.

[WIPO Overview 3.0](#), section 3.2.3 records the consensus view of panels being:

“Panels have held that especially domainers undertaking bulk purchases or automated registrations have an affirmative obligation to avoid the registration of trademark-abusive domain names. Panelists will look to the facts of the case to determine whether such respondent has undertaken good faith efforts to screen such registrations against readily-available online databases to avoid the registration of trademark-abusive domain names.”

After referring to [WIPO Overview 3.0](#), section 3.2.3, and observing that the respondent in that case had registered the domain name “without concern as to whether doing so abused the trademark rights of a third party”, the panel in *Supermac’s*, above, continued:

“it seems clear that the disputed domain name has the greatest value to the Complainant, given that the Complainant has trademark rights in the string to which the disputed domain name is almost identical, and given that the Complainant was the immediately-prior previous registrant of the disputed domain name (before failing to renew the registration through error). Thus, it can be seen that the value of the disputed domain name derives primarily from the fact that it is the Complainant’s trademark, rather than from the fact that it contains arguably a descriptive term. In these circumstances, and absent any attempt by the Respondent to avoid registering a domain name that is another person’s trademark, the Respondent must accept that, judged objectively, it will be considered to have registered the disputed domain name for the primary purpose of selling it to the Complainant – which is deemed by the Policy to be evidence of registration and use in bad faith.”

The panel in *Supermac’s*, above, further noted that this approach applied “even in cases where the domain name might be considered highly generic or descriptive” if it was also a third party’s trademark. As [WIPO Overview 3.0](#), section 3.2.3 recognises, however, it is still necessary to consider the facts of the particular case.

That leads to the third consideration, the Respondent’s offer to sell the disputed domain name for USD 4,888. *Supermac’s*, above, involved a case where the respondent offered the domain name for sale for USD 19,888. In that decision, the panel’s survey of decisions showed offered prices ranging from as high as

USD 200,000 down to USD 4,000 and USD 5,000.

The price set by the Respondent, therefore, is in the lower range but still appears to be very significantly higher than the typical costs of registering domain names in the .tech TLD and, as already noted, the Respondent has not sought to explain how the price has been arrived at.

In the absence of evidence directed to how that valuation was determined, the Panel acknowledges it is possible that someone engaged in a business corning beef, or an individual, town or corporation named "corning" may be so desirous of the disputed domain name as to pay the offer price. Objectively, however, it seems more likely that the price reflects a perceived value of the disputed domain name as it is identical to the Complainant's trademark especially bearing in mind the apparent relevance of the .tech TLD to the nature of the Complainant's business.

The present case, therefore, seems very different to *Kitchens To Go, LLC v. KTG.COM, Whoisguard Protected / HUKU LLC*, WIPO Case No. [D2017-2241](#). That case concerned a three letter acronym, KTG, which was not the complainant's trademark but an acronym and the complainant's evidence fell well short of establishing it had common law rights in the acronym. In addition, the respondent had been the registrant for some 10 years before the complaint was brought.

Having regard to the considerations summarised in [WIPO Overview 3.0](#), section 3.2.3 and the objective nature of the test, therefore, the Panel finds that the disputed domain name has been registered and subsequently used in bad faith.

Accordingly, the Complainant has established all three requirements under the Policy.

6. 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.tech> be transferred to the Complainant.

/Warwick A. Rothnie/

Warwick A. Rothnie

Sole Panelist

Date: January 27, 2025