

## **ADMINISTRATIVE PANEL DECISION**

### **Chevron Corporation and Chevron Intellectual Property LLC v. Bmtech Global Case No. D2024-0563**

#### **1. The Parties**

The Complainants are Chevron Corporation and Chevron Intellectual Property LLC, United States of America (“United States”), represented by Demys Limited, United Kingdom.

The Respondent is Bmtech Global, Nigeria.

#### **2. The Domain Name and Registrar**

The disputed domain name <texaco.pro> 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 7, 2024. On February 8, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 8, 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, Privacy Service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 12, 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 amended Complaint on February 15, 2024.

The Center verified that the Complaint together with the amended 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 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 10, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 13, 2024.

The Center appointed Alissia Shchichka as the sole panelist in this matter on March 19, 2024. 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 First Complainant, Chevron Corporation, headquartered in San Ramon, California, United States, is a renowned global entity operating in the energy and technology sectors. Specializing in oil and gas exploration, retail fuel distribution, and renewable energy development, the First Complainant has established its presence worldwide since its inception in 1879. With operations spanning across more than 180 countries, the company has earned significant recognition, securing the 26th position in the Forbes Global 2000 and the 23rd spot in Fortune's GLOBAL 500 rankings. Notably, the First Complainant's revenue exceeded USD240 billion in 2023. Furthermore, following its acquisition of Texaco in 2001, the Texaco brand seamlessly integrated into the First Complainant's brand portfolio.

The Second Complainant, Chevron Intellectual Property LLC, is the proprietor of a global portfolio of registered trademarks for the term TEXACO. It notably has evidenced to be the registered owner of numerous trademark registrations, including, but not limited, to the following:

- Benelux Trademark Registration No. 53356, for a verbal mark TEXACO, filed on September 6, 1971, in classes 4, 5 and 19;
- European Union Trademark Registration No. 000142398, for a verbal mark TEXACO, registered on November 17, 1998, in classes 1, 4 and 37;
- United States Trademark Registration No. 794947, for a verbal mark TEXACO, registered on August 24, 1965, in class 37.

The Complainants also own several domain names, including <texaco.com> (registered on October 31, 1990) and <texacolubricants.com> (registered on May 2, 2003), which incorporate the TEXACO trademarks.

The disputed domain name was registered on November 18, 2023, and currently displays an inactive page. The Complainants provided evidence that previously, the disputed domain name led to an active website that closely resembled the Complainants' website. This website purported to be operated by, associated with, or endorsed by the Complainants. It extensively copied content from the Complainants' official Texaco website, including structure, text, and images. Moreover, it prominently displayed the TEXACO trademark and falsely represented itself as associated with Chevron U.S.A. Inc. Additionally, unauthorized links redirected users to the Complainants' official websites.

According to the disclosed Whois information for the disputed domain name, the Respondent is located in Nigeria.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

Notably, the Complainants assert that the TEXACO trademark has achieved global recognition and is a well-known trademark.

According to the Complainants, the disputed domain name is confusingly similar to the Complainants trademark TEXACO as it incorporates the entire trademark. In respect of the generic Top-Level Domain (“gTLD”) “.pro”, which forms part of the disputed domain name, the Complainants request that the Panel disregard it under the first element as it is a standard registration requirement.

The Complainants contend that the Respondent has no rights or legitimate interests in the disputed domain name since (1) the Complainants are not affiliated with the Respondent and they have never licensed or otherwise authorized the Respondent to apply to register the disputed domain name; (2) the Respondent is not commonly known by the disputed domain name; (3) the Respondent has not used or prepared to use the disputed domain name in connection with a offering of goods or services, but with the purpose of misleadingly diverting consumers and tarnishing the Complainants' marks; and (4) the Respondent attempted to impersonate the Complainants by (i) the appearance of the Complainants' official website, (ii) including links on the website associated with the disputed domain name that redirected to the Complainants' official websites, and (iii) failing to provide any disclaimer indicating the lack of a relationship with the Complainants.

Finally, the Complainants assert that the Respondent was aware of and deliberately targeted the Complainants' previously registered trademarks with the intention of creating a likelihood of confusion with the Complainants marks.

Therefore, the Complainants allege that the registration and use of the disputed domain name was, and currently is, in bad faith.

The Complainants request that the disputed domain name be transferred to the Second Complainant.

## **B. Respondent**

The Respondent did not reply to the Complainants' contentions.

## **6. Discussion and Findings**

### **A. Procedural issues: Consolidation of Complainants**

The Complainants requested the Panel to hear the present dispute brought by two Complainants as a consolidated Complaint.

In assessing whether a complaint filed by multiple complainants may be brought against a single respondent, panels look at whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ([“WIPO Overview 3.0”](#)), section 4.11.1.

The Complainants assert they are related corporate entities and have a common legal interest sufficient to justify consolidation.

The Panel notes that the Complainant Chevron Intellectual Property LLC, is the proprietor of TEXACO trademarks and holding company of the other Complainant Chevron Corporation. Therefore, the Complainants have a specific common grievance against the Respondent.

Moreover, the Respondent will not suffer any prejudice, and consolidation will not affect the Respondent's rights in response to the Complaint.

Taking into account the above the Panel rules in favor of consolidation and grants the request to consolidate.

## **B. Substantive issues**

Under paragraph 4(a) of the Policy, the Complainant carries the burden of proving:

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

The Respondent's default in the case at hand does not automatically result in a decision in favor of the Complainant, however, paragraph 5(f) of the Rules provides that if the Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute solely based upon the Complaint.

Further, according to paragraph 14(b) of the Rules, the Panel may draw such inferences from the Respondent's failure to submit a response as it considers appropriate.

### **A. Identical or Confusingly Similar**

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 Complainants have shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds 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 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.

The Complainants have confirmed that the Respondent is not affiliated with the Complainants, or otherwise authorized or licensed to use the TEXACO trademarks or to seek registration of any domain name incorporating the trademark. The Respondent is also not known to be associated with the TEXACO trademarks, and there is no evidence showing that the Respondent has been commonly known by the disputed domain name. [WIPO Overview 3.0](#), section 2.3;

Based on the available record, the Panel finds that the Respondent is not 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. [WIPO Overview 3.0](#), section 2.4;

Indeed, as demonstrated by the Complainants on record, previously, the disputed domain name has been used for an active webpage, reproducing the Complainants' TEXACO trademark and impersonated the Complainants. Panels have held that the use of a domain name for illegal activity, namely for impersonation/passing off, or other types of fraud, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Additionally, the website which has been used by the Respondent contained numerous links redirecting to the official websites of the Complainants. Such use of the disputed domain name does not qualify as bona fide offering of goods or services or a legitimate noncommercial or fair use and cannot under the circumstances confer on the Respondent any rights or legitimate interests in the disputed domain name. [WIPO Overview 3.0](#), section 2.5.3.

Furthermore, the composition of the disputed domain name is such that it carries a risk of implied affiliation with the Complainants and/or endorsement by the trademark owner, which cannot be considered as fair use. [WIPO Overview 3.0](#), section 2.5.1.

Finally, the fact that the disputed domain name currently resolves to an inactive page does not alter the aforementioned conclusion, especially in consideration of the commercial nature of the website to which the confusingly similar disputed domain name has been redirected.

Having reviewed the available record, the Panel finds the Complainants have established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainants' prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Therefore, the Panel concludes that the Respondent does not have any rights or legitimate interests in the disputed domain name and the Complainants have met its burden under paragraph 4(a)(ii) of the Policy.

### **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.

In the present case, the Panel notes that the Complainants' well-known TEXACO trademarks substantially predates the Respondent's registration of the disputed domain name. Therefore, the Respondent knew or should have known of the Complainants' trademarks at the time of registering the disputed domain name. [WIPO Overview 3.0](#), section 3.2.2.

Further, the mere registration of the disputed domain name that is confusingly similar to the Complainants' widely known trademarks by the Respondent, who is unaffiliated with the Complainants, can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

Moreover, the Respondent's awareness of the Complainants and their trademarks can be easily inferred from the use of the disputed domain name. By employing the disputed domain name for a website featuring the Complainants' TEXACO trademark and redirecting links to the Complainants' official websites, it is evident that the Respondent was aware of the business activities associated with the Complainants' TEXACO trademarks. Panels have consistently ruled that under paragraph 4(b)(iv) of the Policy, this circumstance shall be deemed as evidence of the registration and use of a domain name in bad faith.

Therefore, in the Panel's view, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainants' TEXACO trademark 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. [WIPO Overview 3.0](#), section 3.1.4.

Upon reviewing the available evidence, the Panel concludes that the current non-use of the disputed domain names does not preclude a finding of bad faith, as established in the landmark UDRP decision *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

In this context, it also carries weight in the eyes of the Panel that the Respondent obviously provided false contact information in the Whois register for the disputed domain name since, according to the Whois details, the Respondent is located in Amsterdam, Nigeria. This fact at least throws a light on the Respondent's behavior which supports the Panel's bad faith finding.

Based on the available record, the Panel finds that the Complainants have 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 <texaco.pro> be transferred to the Second Complainant.

*/Alissia Shchichka/*

**Alissia Shchichka**

Sole Panelist

Date: April 2, 2024