

ADMINISTRATIVE PANEL DECISION

Chevron Corporation and Chevron Intellectual Property LLC v. Carolina Rodrigues, Fundacion Comercio Electronico
Case No. DCO2023-0030

1. The Parties

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

The Respondent is Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

2. The Domain Name and Registrar

The disputed domain name <chevronlubricants.co> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 20, 2023. On March 20, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 20, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainants on March 23, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amended Complaint on March 24, 2023.

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 April 3, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 23, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 27, 2023.

The Center appointed Manuel Moreno-Torres as the sole panelist in this matter on May 16, 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 first Complainant, Chevron Corporation, is a multinational energy and technology company headquartered in California, United States. The corporation was founded in 1879 and operates under trade names incorporating “Chevron”.

The second Complainant, Chevron Intellectual Property LLC, is the intellectual property holding company of the Complainants’ group and holds CHEVRON registered rights in different jurisdictions. By way of example:

- United States Patent and Trademark Office: registration No. 364683 for CHEVRON, registered on February 14, 1939, for goods in class 04;
- United Kingdom Intellectual Property Office: registration No. UK00000638572 for CHEVRON, registered on July 12, 1945, for goods in class 4;
- European Union Intellectual Property Office: registration No. 000095745 for CHEVRON, registered on March 8, 1999, for goods in classes 1, 2, 3, 4, 16, 17, and 19;
- European Union Intellectual Property Office: registration No. 015759095 for CHEVRON (figurative), registered on December 30, 2016, for services in classes 35, 37, and 39.

The Complainants operate an official website at “www.chevron.com” and also own and operate the <chevronlubricants.com> domain name for their business.

The disputed domain name was registered on February 13, 2023, and at the moment of the filing of the Complaint it directed to a pay-per-click (“PPC”) advertising webpage containing third-party commercial advertising links.

The Respondent has been party to more than 550 previous disputes under the UDRP, the majority of which found against the Respondent.

5. Parties’ Contentions

A. Complainants

The Complainants allege that the disputed domain name incorporates the Complainants’ CHEVRON mark in its entirety, differing only by the addition of the generic term “lubricants”. However, say the Complainants, addition of this term does nothing to distinguish the disputed domain name from the Complainants’ mark since the term is strongly associated with the Complainants and their activities. Further, the Complainants operate a domain name with the identical Second-Level Domain, namely “chevronlubricants” in the “.com” Top-Level Domain (“TLD”). Therefore, conclude the Complainants, the disputed domain name is confusingly similar to a name or mark in which they have rights in terms of the Policy.

The Complainants affirm that the Respondent has no rights or legitimate interests in the disputed domain name. As such, the Respondent has not been commonly known as “chevron” or “chevron lubricants”. Nor is the Respondent a licensee of the Complainants and it has not received any permission or consent from either Complainant to use their CHEVRON trademark.

The Complainants assert having found no evidence that the Respondent owns any trademark incorporating the term “chevron” or “chevron lubricants”.

Further, the Complainants contend that the Respondent is not making a legitimate noncommercial use of the disputed domain name and refer to section 2.9 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) since it directs to a PPC advertising. In such use, aver the Complainants, the Respondent is trying to capitalize on the value of the CHEVRON trademark.

The Complainants also submit that given the CHEVRON well-known trademark value it is inconceivable the Respondent did not have the Complainants in mind when it acquired the disputed domain name.

The Complainants note that it is well established under the Policy that in most circumstances the display of PPC advertising in association with a domain name that is confusingly similar to a complainant’s trademark is sufficient on its own for a finding of registration and use in bad faith. The Complainants have also referred to section 3.5 of the [WIPO Overview 3.0](#)

To add more arguments for this third requirement, the Complainants suggest that the disputed domain name is configured with MX records and is therefore capable of email communication. Since the disputed domain name is confusingly similar to the Complainants’ mark, the Complainants suggest that anyone receiving an email originating from the disputed domain name would reasonably assume that it was sent from the Complainants.

Ultimately, the Complainants refer to section 3.6. of the [WIPO Overview 3.0](#) to aver that the use of the privacy service by the Respondent is further indication of bad faith registration and use of the disputed domain name.

B. Respondent

The Respondent did not reply to the Complainants’ contentions.

6. Discussion and Findings

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

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainants have 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.

There are no exceptional circumstances within paragraph 5(f) of the Rules to prevent the Panel from determining the dispute based upon the Complaint, notwithstanding the failure of the Respondent to file a Response. Under paragraph 14(a) of the Rules in the event of such a “default” the Panel is still required “to proceed with a decision on the complaint”, whilst under paragraph 14(b) it “shall draw such inferences therefrom as it considers appropriate”. This dispute resolution procedure is accepted by the domain name registrant as a condition of registration.

A. Identical or Confusingly Similar

The Panel is satisfied that the Complainants have establish trademarks rights in CHEVRON for purposes of the Policy paragraph 4(a)(i). Thus, the test for identity or confusing similarity under the first element rests on the comparison between the disputed domain name and the mark. While the reproduction of CHEVRON in its entirety is evident, the addition of the word “lubricants” does not prevent a finding of confusing similarity.

See the [WIPO Overview 3.0](#), section 1.8: “Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element”.

Besides, TLDs are generally irrelevant to the consideration of identity or confusing similarity between a trademark and a domain name. See section 1.11 of [WIPO Overview 3.0](#).

Therefore, the first requirement is met under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

While paragraph 4(a)(ii) of the Policy requires the Complainant to establish that the Respondent has no rights or legitimate interests in respect of the disputed domain name, previous UDRP panels have recognized that proving this second requirement may result in the often impossible task of proving a negative since such information is often primarily within the knowledge or control of the respondent. Accordingly, and as noted in section 2.1. of the [WIPO Overview 3.0](#): “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.”

The Panel has carefully read the records and finds no rights or legitimate interests of the Respondent in the disputed domain name. Indeed, there is no *indicia* that the Respondent is commonly known by “chevron” or “chevronlubricants”. Besides, the Respondent is not a licensee nor has ever received permission to use the CHEVRON trademark as a domain name. Neither does the Respondent appear to have had a trademark corresponding to the disputed domain name. Moreover, the Panel agrees with the Complainants that the PPC advertising is trying to capitalize on the goodwill of the Complainants or otherwise mislead Internet users. Thus, the Respondent is taking advantage of the well-known nature of the CHEVRON trademark to presumably obtain a commercial gain, and consequently is not making a *bona fide* offering of goods or services in accordance with paragraph 4(c)(i) of the Policy.

Further, the Panel also highlights that the composition of the disputed domain name carries a risk of implied affiliation with the Complainant’s trademark. See section 2.5.1. [WIPO Overview 3.0](#). See also *Crocs, Inc. v. Client Care, Web Commerce Communications Limited*, WIPO Case No. [D2022-0029](#). This finding is reinforced by the Complainants’ ownership of <chevronlubricants.com> domain name.

Therefore, a *prima facie* case has been made out by the Complainants.

Having said that, the Panel finds that the lack of rebuttal of the Respondent establishes the Complainants’ *prima facie* case, thereby succeeding on the second requirement.

Consequently, the Complainants have demonstrated that the Respondent lacks rights or legitimate interests in the disputed domain name further to the Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

The Panel notes that bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant’s mark.

The Complainants have been using CHEVRON trademark for over 84 years, namely, long before the Respondent registered the disputed domain name. Besides, prior UDRP panels have found that CHEVRON is a well-known trademark. Under these circumstances, it seems more likely than not that the Respondent targeted CHEVRON trademark and the Complainants, particularly given the one-letter difference between the disputed domain name and the Complainant’s domain name <chevronlubricants.com>. Thus, the Respondent knew or should have known about the Complainants at the moment of the registration of the

disputed domain name.

The Panel also looks at [WIPO Overview 3.0](#) section 3.1.1. for circumstances indicating bad faith registration: "... the nature of the domain name (e.g., whether a typo of a famous mark, a domain name wholly incorporating the relevant mark plus a geographic term or one related to the complainant's area of commercial activity, or a pure dictionary term) and the distinctiveness of trademark at issue, among other factors, are relevant to this inquiry". This matches the present case wherein the well-known CHEVRON mark is combined with the descriptive term "lubricants" that is affiliated with the scope of goods, and general industry, of the Complainants and therefore the registration of the disputed domain name falls within what is deemed to be considered bad faith registration.

With regard to the use, it has been proven that the disputed domain name resolves to a webpage displaying PPC links and therefore the Respondent's attempt to divert consumers to third parties unrelated to the Complainants and some in direct competition with the Complainants, purportedly obtaining revenues for this activity. This is deemed to be in bad faith. See *AECI Limited v. Rick Matthews*, WIPO Case No. [D2022-1250](#). Accordingly, the Respondent's use of the disputed domain name falls under paragraph 4b(iv) of the Policy as evidence of the registration and use of a domain name in bad faith. The Panel also accepts that a respondent cannot disclaim responsibility for links appearing on the website associated with its domain name. See *Volkswagen Aktiengesellschaft v. Robert Brodi*, WIPO Case No [D2015-0299](#).

Moreover, as set out in the factual background, the Respondent has engaged in a pattern of conduct within the meaning of paragraph 4(b)(ii) of the Policy. See, by way of example, *Carvana, LLC v. Carolina Rodrigues, Fundación Comercio Electronico*, WIPO Case No. [D2023-1274](#), and *Alstom v. Carolina Rodrigues, Fundación Comercio Electrónico*, WIPO Case No. [D2023-1196](#). Accordingly, the Panel is prepared for an adverse finding under the terms of the Policy.

Under these circumstances of the case, the Panel finds that it appears that the Respondent has employed a privacy service merely to avoid being notified of the UPDR proceeding or at very list to hinder the proceeding, if a UDRP proceeding was filed against it. This is a further indication of bad faith.

Accordingly, the Panel finds that the Complainants have satisfied the requirements of 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, <chevronlubricants.co>, be transferred to the Complainant Chevron Intellectual Property LLC.

/Manuel Moreno-Torres/

Manuel Moreno-Torres

Sole Panelist

Date: May 30, 2023