

ADMINISTRATIVE PANEL DECISION

Chevron Corporation, Chevron Intellectual Property LLC v. 张智佳
Case No. D2022-3824

1. The Parties

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

The Respondent is 张智佳, China.

2. The Domain Name and Registrar

The disputed domain name <chevron-global.com> is registered with Dynadot, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 12, 2022. On October 13, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 13, 2022, 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 October 19, 2022, 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 October 20, 2022.

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 October 25, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 14, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 15, 2022.

The Center appointed Christian Gassauer-Fleissner as the sole panelist in this matter on November 23, 2022. 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 Complainants are part of a multinational energy and technology company. The First Complainant is primarily engaged in the oil and gas industry, including the production and distribution of chemicals and the development of alternative energy sources and renewable fuels. The First Complainant operates in the world's major oil and gas regions and is the second largest energy company in the United States.

It was founded in 1879, is currently active in over 180 countries and operates brands including Chevron, Texaco, and Caltex.

The Second Complainant is the intellectual property holding company of the Complainants' group and is the owner of among others, the following trademark registrations:

- United States trademark registration for CHEVRON No. 0364683 registered on February 14, 1939;
- United Kingdom trademark registration for CHEVRON No. UK00000638572 registered on July 12, 1945;
- European Union trademark registration for CHEVRON No. 000095745 registered on March 8, 1999.

The Respondent registered the disputed domain name on August 5, 2022. It has been resolving to a pay-per-click advertising webpage containing third-party commercial advertising links, including a direct reference to the Complainants and their proprietary gasoline credit card.

5. Parties' Contentions

A. Complainant

The arguments put forward by the Complainants can be summarized as follows:

The First Complainant and the great majority of its subsidiaries operate under trade names containing "Chevron" and the First Complainant is well known by and typically referred to by that term alone. The Second Complainant is CHEVRON-group's intellectual property holding company. The Complainants operate an official website from "www.chevron.com". The disputed domain name takes unfair advantage of the First Complainant's CHEVRON brand and is confusingly similar to the Second Complainant's registered rights.

On the first element of the Policy, the Complainants claim that the disputed domain name is similar to the CHEVRON trademarks in that it differs only by the addition of the dictionary term "global".

On the second element of the Policy, the Complainants contend that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has not been authorized by the Complainants to use the trademark CHEVRON. The Respondent is not commonly known by the disputed domain name. The Respondent does not make a legitimate noncommercial use of the disputed domain name.

On the third element of the Policy, the Complainants claim that the Respondent had prior knowledge of the Complainants and the trademark CHEVRON and registered the disputed domain name in bad faith. The display of pay-per-click advertising in association with a domain name that is confusingly similar to a complainants' trademark is sufficient on its own for a finding of registration and use in bad faith. The use of a privacy service by the Respondent is indicative of bad faith.

With the Complaint, the Complainants seek that the disputed domain name is transferred to the Second Complainant.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules requires that the Panel's decision be made "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".

It has been a consensus view in previous UDRP decisions that a respondent's default (*i.e.*, failure to submit a response) would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true (see section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the Complaint, namely that:

(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.

A. Identical or Confusingly Similar

The First Complainant has established rights in the CHEVRON trademark because it has become a distinctive identifier which consumers associate with the CHEVRON group of companies. The Second Complainant has established rights in the CHEVRON trademark by way of various registered trademarks.

The disputed domain name contains the Complainants' CHEVRON trademark with the addition of the term "global" and the generic Top-Level Domain ("gTLD") ".com".

The fact that the disputed domain name differs from the Complainants' trademark by the addition of the element "global" does not prevent the confusing similarity.

[WIPO Overview 3.0](#), section 1.11.1 reads: "The applicable Top Level Domain ('TLD') in a domain name (*e.g.*, '.com', '.club', '.nyc') is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test."

In many UDRP decisions, panels have found that the addition of terms does not prevent a finding of confusing similarity where the relevant trademark is recognizable within the disputed domain name. The disputed domain name is a combination of the Complainants' mark CHEVRON and the term "global". The Panel finds that the inclusion of the word "global" does not prevent the Complainants' mark from being recognizable in the disputed domain name, (see section 1.8 of [WIPO Overview 3.0](#)) which states that "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. The nature of such additional term(s) may however bear on assessment of the second and third elements".

The Panel finds the Complainants have satisfied the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainants, under the second requirement of paragraph 4(a)(ii) of the Policy, need to establish that the Respondent has no rights or legitimate interests in respect of the disputed 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 (see section 2.1 of the [WIPO Overview 3.0](#)).

Additionally, as regards use of a domain name in connection with pay-per-click (“PPC”) parking websites, [WIPO Overview 3.0](#), section 2.9, states: “Applying UDRP paragraph 4(c), Panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of the Complainant’s mark or otherwise mislead Internet users.” The Respondent hosts PPC links under the disputed domain name which incorporates the Complainants’ trademark and therefore capitalizes on the reputation and goodwill of the Complainants’ mark.

The Respondent has no connection or affiliation with the Complainants and has not received any authorization, license, or consent, whether express or implied, to use the mark in the disputed domain name or in any other manner. There is no legitimate basis for the Respondent’s registration or use of the disputed domain name (which is confusingly similar to the Complainants’ trademark) except the fact that the Respondent creates a risk of misrepresentation by using the disputed domain name.

Accordingly, the Panel finds the Complainants have satisfied the requirements of paragraph 4(a)(ii) of the policy.

C. Registered and Used in Bad Faith

The Complainants, under the third requirement of paragraph 4(a)(iii) of the Policy, need to establish that the Respondent has been registered and is being used in bad faith.

[WIPO Overview 3.0](#), section 3.2.2, reads: “Knew or should have known: Noting the near instantaneous and global reach of the Internet and search engines and particularly in circumstances where the Complainant’s mark is widely known (including in its sector) or highly specific and a Respondent cannot credibly claim to have been unaware of the mark, panels have been prepared to infer that the respondent knew, or have found that the respondent should have known that its registration would be identical or confusingly similar to a complainant’s mark.” Similarly, under [WIPO Overview 3.0](#), section 3.1.4, “the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith”. Accordingly, the Panel finds that the Respondent’s registration of the confusingly similar disputed domain name was in bad faith.

Also, the Panel finds the Respondent’s use of the disputed domain name for PPC advertisement qualifies as bad faith under paragraph 4(b)(iv) of the Policy, in which a respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainants’ mark.

Lastly, the Panel notes that the Respondent seems to have provided false or incomplete contact information when registering the disputed domain name, which is illustrated by the courier's inability to deliver the center's written communication to the details disclosed by the Registrar. A respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement) are further inferences of bad faith.

The bad-faith allegations set out above lead to the conclusion that it is registered and used in bad faith.

Thus, 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 <chevron-global.com> be transferred to the Second Complainant.

/Christian Gassauer-Fleissner/

Christian Gassauer-Fleissner

Sole Panelist

Date: December 15, 2022