

ADMINISTRATIVE PANEL DECISION

Chevron Corporation and Chevron Intellectual Property LLC v. ziyab ur rehman

Case No. D2023-1214

1. The Parties

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

The Respondent is ziyab ur rehman, Pakistan.

2. The Domain Name and Registrar

The disputed domain name <texacouk.live> is registered with NameCheap, Inc. (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 (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 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 Respondent sent an informal email communication to the Center on March 24, 2023. The Complainants filed an amended Complaint on March 27, 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 March 31, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 20, 2023. The Response was filed with the Center on April 1, 2023.

On April 3, 2023, the Respondent sent an informal email communication to the Center.

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on May 15, 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 is a multinational energy and technology company headquartered in San Ramon, California, United States, founded in 1879, and currently active in over 180 countries, operating brands including “Chevron”, “Caltex” and “Texaco”.

In 2022 the First Complainant was ranked as the 26th-largest public company in the world in Forbes’ Global 2000 list, an annual ranking of the top 2,000 public companies in the world based on sales, profit, assets and market value.

The Second Complainant is the Complainants’ group’s intellectual property holding company, also incorporated in San Ramon, California, United States and which is the owner, amongst others, of the following trademark registrations:

- United Kingdom registration No. UK0000420626A for the word mark TEXACO, registered on November 16, 1921, subsequently renewed, in class 19; and
- European Union registration No. 000142398 for the word mark TEXACO, registered on November 17, 1998, subsequently renewed, in classes 1, 4 and 37.

The disputed domain name was registered on February 8, 2023 and has been used in connection with a webpage purporting to be the Complainants’ local website for the United Kingdom, reproducing the Complainants’ trademarks and look and feel of the Complainants’ official website. Presently, no active webpage resolves from the disputed domain name.

5. Parties’ Contentions

A. Complainants

The First Complainant asserts to be 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, operating in the world’s major oil and gas regions and being the second largest energy company in the United States.

The Complainants further assert that in 2001, the First Complainant acquired Texaco, Inc. and its world famous TEXACO brand, which has since then become an integral and significant part of the First Complainant’s well-known group and brand family.

The Complainants further contend that the website that resolved from the disputed domain name largely copied the look and feel of the Complainants’ official websites and incorporated the Complainants’ TEXACO trademark prominently on top left of the page (Annex 11 to the Complaint), falsely presenting itself as “Texaco UK” in the “CONTACT” section (“UK CUSTOMER CARE”) and in the footer (“© {2020} Texaco UK”).

In addition to that the Complainants draw attention to the fact that the disputed domain name is configured with MX records, which means it can be used for email communication (Annex 12 to the Complaint).

Under the Complainants' view, the disputed domain name is confusingly similar to their famous trademark in that it only differs by the addition of the initialism "uk", seemingly in this context the official country abbreviation of "United Kingdom".

As to the Respondent's lack of rights and legitimate interests, the Complainants further assert that:

- i. the Respondent is not authorized by, endorsed by, or otherwise affiliated with the Complainants, not being a licensee of the Complainants and not having received any permission or consent from either Complainant, collectively or singly, to use their TEXACO trademark;
- ii. there is no evidence that the Respondent has been commonly known as TEXACO or TEXACO UK prior to or after the registration of the disputed domain name;
- iii. there is no evidence that the Respondent owns any trademarks incorporating the terms TEXACO or "texaco uk", nor is there any evidence that the Respondent has ever traded legitimately under the names TEXACO or "texaco uk";
- iv. given the fame of both its mark (as outlined above) and the confusing similarity of the disputed domain name to said mark, there is no conceivable use to which the disputed domain name could be put now, or in the future, that would confer any legitimate interest upon the Respondent;
- v. the use made of the disputed domain name to impersonate the Complainants' website cannot confer a legitimate interest on the Respondent.

Lastly, the Complainants allege that the disputed domain name was registered and is being used in bad faith given the well-known status of the Complainants' TEXACO trademark and the use made of the disputed domain name in connection with a website impersonating the Complainants. In addition to that, according to the Complainants, two other factors are indicative of the Respondent's bad faith: the potential use of the disputed domain name in connection with misleading emails given the configured MX records and, lastly, the use of a privacy service and false contact information so as to conceal its true identity.

B. Respondent

On its March 24, 2023 message to the Center, the Respondent stated "[...] I don't want this domain anymore i am sorry i have not much idea about this name or domain but I want to cancel this domain i don't want this domain anymore" and on its formal response and subsequent message dated April 3, 2023, the Respondent reiterated that it was ready to transfer the disputed domain name to the Second Complainant.

6. Discussion and Findings

Firstly, the Panel has to address the Respondent's acceptance as to the voluntary transfer of the disputed domain name without findings of fact or conclusions as to the merits of the case under the UDRP.

A panel may at its discretion order the transfer of the domain name if the respondent has given its unambiguous consent to transfer without findings under the Policy, paragraph 4(a). WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.10. Some panels have declined to grant a remedy solely on the basis of respondent's consent where the complainant objects or because the panel finds a broader interest in reaching a substantive determination.

In the present case, considering all the circumstances of the present case, including the fact that the Complainants indicated that they did not wish to explore settlement options, the Panel will proceed to a decision on the merits, and analyze the three requisite elements under paragraph 4(a) of the Policy which have to be met for this Panel to order the transfer of the disputed domain name to the Complainants.

Paragraph 4(a) of the Policy sets forth the following three requirements which have to be met for this Panel to order the transfer of the disputed domain name to the Complainants:

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

The Complainants must prove in this administrative proceeding that each of the aforesaid three elements is present so as to have the disputed domain name transferred to them according to paragraph 4(a) of the Policy.

A. Identical or Confusingly Similar

The Complainants have established rights in the TEXACO trademark.

The disputed domain name reproduces the Complainants' TEXACO trademark entirely. It is well accepted that the first element functions primarily as a standing requirement and that the threshold test for confusing similarity involves a "reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name". In cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of the UDRP ([WIPO Overview 3.0](#), section 1.7).

The Panel therefore finds that the Complainants have established the first element of paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a non-exclusive list of circumstances that indicate the Respondent's rights or legitimate interests in the disputed domain name. These circumstances are

- (i) before any notice of the dispute, the Respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the 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, in spite of not having acquired 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.

In that sense, the Complainants indeed have made a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name which has been used in connection with a website purporting to be the Complainants' official website for the United Kingdom.

The composition of the disputed domain name itself carries a risk of implied affiliation. Furthermore, the absence of any indication that the Respondent has rights in a term corresponding to the disputed domain name, or any possible link between the Respondent and the disputed domain name that could be inferred from the details known of the Respondent or the webpage relating to the disputed domain name, corroborate the Panel's finding of the absence of rights or legitimate interests.

Under these circumstances and absent evidence to the contrary, the Panel finds that the Respondent does not have rights or legitimate interests with respect to the disputed domain name.

The Panel therefore finds that the Complainants have established the second element of paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

The Policy indicates in paragraph 4(b) that bad faith registration and use can be found when “(iv) by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent’s website or other 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 website or location”.

In the present case, the Respondent’s conduct, while having used the disputed domain name in connection with a website impersonating the Complainants, clearly created a likelihood of confusion with the Complainants’ well-known mark and a risk of potential use of the disputed domain name in connection with misleading e-mails.

Furthermore, regarding the current use of the disputed domain name, past UDRP panels have already dealt with the question of whether the “passive holding” of a domain name could constitute bad faith. Section 3.3 of the already quoted [WIPO Overview 3.0](#) states that “[f]rom the inception of the UDRP, panelists have found that the non-use of a domain name (including a blank or ‘coming soon’ page) would not prevent a finding of bad faith under the doctrine of passive holding. While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put”.

In the present case, the present passive holding of the disputed domain name by the Respondent amounts to the Respondent acting in bad faith, given that the Respondent has provided no evidence whatsoever of any actual or contemplated good faith use of the disputed domain name. In addition to that, it is not possible to conceive of any plausible actual or contemplated active use of the inherently misleading disputed domain name by the Respondent that would not be in bad faith.

For the reasons stated above, the Respondent’s conduct amounts, in this Panel’s view, to bad faith registration and use of the disputed domain name.

The Panel therefore finds that the Complainants have established the third element of paragraph 4(a) 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 <texacouk.live> be transferred to the Second Complainant.

/Wilson Pinheiro Jabur/

Wilson Pinheiro Jabur

Sole Panelist

Date: May 29, 2023