

## ADMINISTRATIVE PANEL DECISION

### Chevron Corporation and Chevron Intellectual Property LLC v. Jinsoo Yoon Case No. D2023-1993

#### 1. The Parties

Complainants are Chevron Corporation, United States of America (“United States”), and Chevron Intellectual Property LLC, United States, represented by Demys Limited, United Kingdom.<sup>1</sup>

Respondent is Jinsoo Yoon, United States.

#### 2. The Domain Name and Registrar

The disputed domain name <texacobaltic.com> 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 May 4, 2023. On May 4, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 5, 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 Complainants on May 16, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainants to submit an amendment to the Complaint. Complainants filed an amended Complaint on May 18, 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”).

---

<sup>1</sup> Paragraph 10(e) of the UDRP Rules grants a panel the power to consolidate multiple domain name disputes. 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. As Complainants allege Respondent takes unfair advantage of Chevron Corporation’s TEXACO brand and is confusingly similar to Chevron Intellectual Property LLC’s registered trademark rights, Complainants have common grievances against Respondent, the Panel permits the consolidation of their claims against Respondent in this proceeding.

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified Respondent of the Complaint, and the proceedings commenced on May 22, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 11, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on June 21, 2023.

The Center appointed Brian J. Winterfeldt as the sole panelist in this matter on July 13, 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**

Complainant Chevron Corporation is a multinational energy and technology company in the oil and gas industry, headquartered in California and founded in 1879. The company operates in the world's major oil and gas regions and is the second largest energy company in the United States. In 2001, Chevron Corporation acquired Texaco Inc., a competitor company, which manufactured and sold car fuel, lubricants, and other related petroleum products under the Texaco brand worldwide.

Complainant Chevron Intellectual Property LLC is the intellectual property holding company, which holds registered trademark rights in the TEXACO trademark (the "TEXACO Mark").

Complainants operate a website located at "www.texaco.com" and several social media accounts. In addition to energy, fuel, and petroleum-related offerings, Complainants offer mobile applications under the TEXACO name via Apple App Store and Google Play.

Complainants own several registrations for the TEXACO Mark including United States Reg. No. 794947, registered August 24, 1965; United Kingdom Reg. No. UK0000344619A, registered August 7, 1912; European Union Reg. No. 000142398, registered November 17, 1998; and Estonia Reg. No. 12058, registered July 8, 1994.

The disputed domain name was registered on November 16, 2018. At the time the Complaint was filed, the disputed domain name resolved to a webpage hosting pay-per-click ("PPC") advertising links related to credit cards and energy companies. The disputed domain name also appears listed for sale on a third-party site for a "minimum offer" of USD 4,950. The disputed domain name currently resolves to a similar PPC advertising webpage.

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

##### **A. Complainants**

Complainants submit that they own registered trademark rights as noted above and that the disputed domain name wholly incorporates their TEXACO Mark and is confusingly similar thereto. Complainants further submit that the added geographical term "baltic" does not distinguish the disputed domain name and does not prevent a finding of confusing similarity. In this regard, Complainants note they own trademark rights in Estonia, one of the Baltic States. Complainants contend that Complainants' TEXACO Mark is the most prominent, dominant, and distinctive element of the disputed domain name and that the ".com" generic Top-Level Domain ("gTLD") is only required for technical reasons and may be ignored.

Complainants contend that Respondent does not have any rights or legitimate interests in the disputed domain name. Complainants submit that Respondent is not a licensee of Complainants and has not received any permission or consent to use the TEXACO mark. Complainants submit that they found no evidence that Respondent has been commonly known as or traded legitimately under "Texaco" or "Texaco Baltic" prior to or after the registration of the disputed domain name. Complainants say that they also found

no evidence that Respondent owns any trademarks incorporating the terms “Texaco” or “Texaco Baltic”. Complainants contend that the PPC advertising links on the website associated with the disputed domain name capitalize on the value of Complainants’ TEXACO Mark, as these PPC links resolve to unrelated third-party companies that operate in similar industries and offer credit card with fuel benefits as Complainants do. In sum, Complainants assert that the disputed domain name uses the well-known TEXACO Mark to misdirect Internet users to third-party advertising to the detriment of Complainants’ rights.

Complainants assert that Respondent registered and used the disputed domain name in bad faith. According to Complainants, their TEXACO Mark is well known, and it is inconceivable that Respondent was unaware of Complainants and their TEXACO Marks when it acquired the disputed domain name. Complainants assert Respondent registered the disputed domain name in bad faith by using the disputed domain to host PPC advertising (even if the PPC links are automatically generated by a third party such as a registrar or auction platform), offering the disputed domain name for a minimum offer of USD 4,950 (which they allege are in excess of any reasonable costs), and using a privacy service to mask Respondent’s identity.

## **B. Respondent**

Respondent did not reply to Complainant’s contentions.

## **6. Discussion and Findings**

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

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

A respondent’s default does not by itself satisfy a complainant’s burden of proof and is not necessarily an admission that the complainant’s allegations are true. See section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”). Thus, even though Respondent has failed to address Complainants’ contentions, the burden remains with Complainants to establish the three elements of paragraph 4(a) of the Policy by a preponderance of the evidence. See, e.g., *Vente-Privee.Com v. Tang Tang Shang, Tang Shan*, WIPO Case No. [D2021-1350](#).

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

Ownership of a national or international trademark registration is *prima facie* evidence that the holder has the requisite rights in the registered mark for purposes of paragraph 4(a)(i) of the Policy. [WIPO Overview 3.0](#), section 1.2.1. Complainants provided evidence that they have rights in the TEXACO Mark through its trademark registrations referenced *supra*. Thus, Complainants have established their trademark rights as required by the Policy.

The remaining question under the first element of the Policy is whether the disputed domain name is identical or confusingly similar to Complainants’ TEXACO Mark (typically disregarding the gTLD in which the domain name is registered, e.g. “.com”). 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.” [WIPO Overview 3.0](#), section 1.7. This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name. *Id.*

Here, the disputed domain name fully incorporates the TEXACO Mark. The addition of the term “baltic” and the gTLD “.com” do not prevent a finding of confusing similarity between the disputed domain name and Complainants’ TEXACO Mark. See [WIPO Overview 3.0](#), section 1.8 (“[w]here 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 Panel finds that Complainants have satisfied the requirements of paragraph 4(a)(i) of the Policy in establishing their trademark rights and showing that the disputed domain name is confusingly similar to Complainants’ TEXACO Mark.

## **B. Rights or Legitimate Interests**

Under paragraph 4(a)(ii) of the Policy, Complainant must make at least a *prima facie* showing that Respondent possesses no rights or legitimate interests in the disputed domain name. See [WIPO Overview 3.0](#), section 2.1. Once Complainant makes such a *prima facie* showing, the burden of production shifts to Respondent, though the burden of proof always remains on Complainant. If Respondent fails to come forward with evidence showing rights or legitimate interests, Complainant will have sustained its burden under the second element of the UDRP.

Paragraph 4(c) of the Policy lists the ways that Respondent may demonstrate rights or legitimate interests in the disputed domain name:

- (i) before any notice of the dispute, 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) Respondent (as an individual, business or other organization) has been commonly known by the disputed domain name, even if it has acquired no trademark or service mark rights; or
- (iii) 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.

Respondent’s use of the disputed domain name for a website hosting PPC links to third-party websites offering fuel and gas cards for vehicles, services that Complainants offer, do not evidence any legitimate noncommercial or fair use of the disputed domain name, nor any *bona fide* offering of goods or services. See [WIPO Overview 3.0](#), section 2.9 (“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.”). Respondent has failed to come forward with any evidence showing rights or legitimate interests. Respondent has not submitted any arguments or evidence to rebut Complainants’ contention that they never authorized, licensed or permitted Respondent to use the TEXACO Mark in any way. Respondent does not appear to be commonly known by the disputed domain name.

In addition, the nature of the disputed domain name carries a risk of implied affiliation. Generally speaking, UDRP panels have found that where a domain name consists of a trademark plus an additional term (at the second- or top-level), UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. [WIPO Overview 3.0](#), section 2.5.1. The disputed domain name incorporates Complainants’ TEXACO Mark and thus cannot constitute fair use as it effectively impersonates or suggests sponsorship or endorsement by Complainants. *Id.*

Complainants provided evidence supporting their *prima facie* claim that Respondent lacks any rights or legitimate interests in the disputed domain name. Respondent, having defaulted, failed to refute Complainants' allegations.

Accordingly, the Panel finds that Respondent does not have any rights or legitimate interests in the disputed domain name within the meaning of 4(a)(ii) of the Policy.

### **C. Registered and Used in Bad Faith**

Bad faith occurs where a respondent takes unfair advantage of or otherwise abuses a complainant's mark. Paragraph 4(b) of the Policy provides that any one of the following non-exclusive scenarios constitutes evidence of a respondent's bad faith:

“(i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name 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 domain name; or

(ii) the respondent has registered the 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 domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online 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 this case, there are ample grounds to find Respondent registered and used the disputed domain name in bad faith. Complainants provided sufficient evidence regarding their longstanding and widespread use and registration of the TEXACO Mark which long predates Respondent's registration of the disputed domain name. Therefore, Respondent was very likely aware of Complainants and their rights in the TEXACO Mark when registering the disputed domain name. See [WIPO Overview 3.0](#), section 3.2.1; see also *TTT Moneycorp Limited v. Privacy Gods / Privacy Gods Limited*, WIPO Case No. [D2016-1973](#).

The disputed domain name was listed for sale for a “minimum offer” of USD 4,950, which is very likely in excess of any reasonable costs related to the registration or renewal of the disputed domain name pursuant to paragraph 4(b)(i) of the Policy.

Of note, Respondent has been party to at least 24 previous disputes under the UDRP, all resulting in findings of Respondent's bad faith and transfers of the disputed domain names involved. The previous disputes all related to domain names, which corresponded to well-known brands and marks. This pattern of conduct strongly suggests that Respondent registered the disputed domain name in order to prevent Complainants from reflecting their TEXACO Mark in a corresponding domain name under paragraph 4(b)(ii) of the Policy.

Complainants submitted ample evidence to support a finding that Respondent registered the disputed domain name with the intention of taking advantage of Complainants' reputation and misleading Internet users for Respondent's commercial gain via PPC ads competing with Complainants' offerings. The Panel accordingly finds that Respondent intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the TEXACO Mark as to the source, sponsorship, affiliation, or endorsement of its website per paragraph 4(b)(iv) of the Policy.

Lastly, the Panel also notes Respondent's use of a privacy service to conceal their identity and finds that this is indicative of bad faith registration and use in combination with the other *indicia* of bad faith. [WIPO Overview 3.0](#), section 3.6.

The Panel finds that Respondent registered and used the disputed domain name in bad faith pursuant to 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 <texacobaltic.com> be transferred to the Complainant, Chevron Intellectual Property LLC.

*/Brian J. Winterfeldt/*

**Brian J. Winterfeldt**

Sole Panelist

Date: July 27, 2023