

ADMINISTRATIVE PANEL DECISION

Chevron Corporation, and Chevron Intellectual Property LLC v. Caleb Tan Case No. D2023-2866

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 Caleb Tan, United States of America.

2. The Domain Name and Registrar

The Disputed Domain Name <chevron-australia.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 5, 2023. On July 5, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On July 6, 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 Complainant on July 7, 2023, 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 the same day.

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 July 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 3, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 17, 2023.

The Center appointed Colin T. O'Brien as the sole panelist in this matter on August 24, 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 of America. Chevron Corporation and the great majority of its subsidiaries operate under trade names formed from its CHEVRON mark. It was founded in 1879 and is currently active in over 180 countries. Products and services carrying the brand CHEVRON include approximately 7,000 branded retail gasoline service stations in North America, as well as branded retail and commercial lubricants distributed and sold worldwide including Australia since 1952. In 2022, Chevron Corporation 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, Chevron Intellectual Property LLC is the intellectual property holding company of Chevron Corporation. It owns various registered trade mark rights for the CHEVRON marks including:

- United States trade mark reg. No. 364683, CHEVRON, registered on February 14, 1939;
- United Kingdom trade mark reg. No. UK00000638572, CHEVRON, registered on July 12, 1945;
- Australian trade mark reg. No. 131733, CHEVRON, registered on April 11, 1957; and
- European Union trade mark reg. No. 000095745, CHEVRON, registered on March 8, 1999.

Chevron Corporation and Chevron Intellectual Property LLC (hereinafter referred to jointly as "the Complainant") operate official websites, in particular, from the domain names <chevron.com> and <australia.chevron.com>.

The Disputed Domain Name was created on September 4, 2021, and resolves to an inactive website. At the time of filing the Complaint, the Disputed Domain Name resolved to a website with content copied from the Complainant's official website.

5. Parties' Contentions

A. Complainant

The Complainant is the proprietor of a global portfolio of registered trade marks for the term CHEVRON. The registration of their earliest mark pre-dates the registration of the Disputed Domain Name by more than 80 years.

The Disputed Domain Name is confusingly similar to the CHEVRON mark in that it only differs by the addition of the geographical term "Australia". Viewed as a whole, the Complainant's mark is the most prominent, dominant, and distinctive element of the Disputed Domain Name. When combined with the Complainant's well-known mark, the descriptive, geographical adornment "Australia", does not dispel any possibility of confusion.

The Respondent does not have any rights or legitimate interests in the Disputed Domain Name. There is no evidence that the Respondent has been commonly known as "chevron" or "chevron Australia" prior to, or after the registration of the Disputed Domain Name. The Respondent is not a licensee of the Complainant and has not received any permission or consent from either Complainant, collectively or singly, to use its CHEVRON mark.

There is no evidence that the Respondent owns any trade marks incorporating the terms “chevron” or “chevron Australia”. Equally, there is no evidence that the Respondent has ever traded legitimately under the names “chevron” or “chevron Australia”.

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.

The Disputed Domain Name resolves to a website that purports to be operated by or associated with the Complainant. The Respondent targeted them to deceive Internet users into believing that the website is operated by or associated with the Complainants. No such misleading and confusing use could relate to a genuine, *bona fide* offering of goods and services and such use could not grant the Respondent a legitimate interest in the Disputed Domain Name.

Given that the Complainant’s marks are well-known, as outlined above, the Complainant assert that it is inconceivable that the Respondent did not have the Complainants firmly in mind when it acquired the Disputed Domain Name. The Complainant contend that it is well-established under the Policy that in most circumstances where a respondent has intentionally attempted to attract Internet users to its website by creating a likelihood of confusion with the complainant’s mark, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of its website.

The Disputed Domain Name is configured with MX records and is therefore capable of email communication. The Complainant aver, since the Disputed Domain Name is confusingly similar to the Complainant’s mark and their official website at “www.chevron.com”, that anyone receiving an email originating from the Disputed Domain Name would reasonably assume that it was sent from the Complainant.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has demonstrated it owns registered trade mark rights in the famous CHEVRON mark and has shown that no other entity has rights in or uses the Complainant’s mark. The addition of “Australia” does not prevent the Complainant’s trade mark from being recognizable in the Disputed Domain Name. The Disputed Domain Name remains phonetically identical to the Complainant’s trade mark. The Top-Level domain (“TLD”) “.com” is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.

See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), sections 1.8 and 1.11.1, and *Hoffmann-La Roche AG v. Domain Admin, Privacy Protection Service INC d/b/a PrivacyProtect.org / Conan Corrigan*, WIPO Case No. [D2015-2316](#).

Accordingly, the Disputed Domain Name is confusingly similar to a mark in which the Complainant has rights.

B. Rights or Legitimate Interests

The Complainant has presented a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name and has not been commonly known by the Disputed Domain Name. The fact that the Respondent obtained the Disputed Domain Name over 70 years after the Complainant had begun using its CHEVRON mark, indicates that the Respondent sought to piggyback on

the CHEVRON mark for illegitimate reasons.

After a complainant has made a *prima facie* case, the burden of production shifts to a respondent to present evidence demonstrating rights or legitimate interests in the domain name. See, e.g., *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#); and section 2.1 of the [WIPO Overview 3.0](#).

Here, the Respondent has provided no evidence of any rights or legitimate interests in the Disputed Domain Name. Moreover, the evidence provided by the Complainant shows that the Disputed Domain Name resolved to an active website seemingly impersonating the Complainant's official website. While resellers and distributors may have limited rights to use a complainant's trade mark for nominative purposes, the lack of any authorization by the Complainant and similarly, the lack of any information on the Disputed Domain Name as to the website's lack of authorization or relation to the Complainant, renders any fair use safe haven inapplicable in this instance. See section 2.8 of the [WIPO Overview 3.0](#).

Irrespective of the Disputed Domain Name satisfying the so-called *Oki Data* test, the nature of the Disputed Domain Name, encompassing the Complainants' trade mark in its entirety and the addition of the geographical term "Australia" carries a high risk of implied affiliation, especially when considering the impersonating nature of the content exhibited at the website the Disputed Domain Name resolves to, and as such cannot constitute fair use. See section 2.5.1 of the [WIPO Overview 3.0](#).

In the absence of any evidence rebutting the Complainant's *prima facie* case indicating the Respondent's lack of rights or legitimate interests in respect of the Disputed Domain Name, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that the Complainant has satisfied its burden of proof in establishing the Respondent's bad faith in registration and use of the Disputed Domain Name. Paragraph 4(b)(iv) of the Policy states that evidence of bad faith may include a respondent's use of a domain name to intentionally attempt to attract Internet users, for commercial gain.

Due to the renown and uniqueness of the CHEVRON mark, it is inconceivable that the Respondent registered the Disputed Domain Name without knowledge of the Complainant. The Disputed Domain Name was used for a website that was mirroring a website operated by the Complainant but the Complainant has established that the Respondent's use is not authorized, nor is affiliated with the Complainant in any way. The facts establish a deliberate effort by the Respondent to cause confusion with the Complainant for commercial gain. Such impersonation of the Complainant is sufficient to establish the Respondent's bad faith (see section 3.1.4 of the [WIPO Overview 3.0](#)). Under these circumstances, the Panel finds no plausible good faith reason for the Respondent's conduct and concludes that the Disputed Domain Name was registered and used in bad faith.

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-australia.com> be transferred to the Complainant Chevron Intellectual Property LLC.

/Colin T. O'Brien/

Colin T. O'Brien

Sole Panelist

Date: September 8, 2023