

ADMINISTRATIVE PANEL DECISION

Chevron Corporation, Chevron Intellectual Property LLC v. James Morgan
Case No. D2023-3065

1. The Parties

The Complainants are Chevron Corporation and Chevron Intellectual Property LLC (hereinafter referred both together as the “Complainants”, and indistinctively as the “Complainant”), United States of America (“US”), represented by Demys Limited, United Kingdom.

The Respondent is James Morgan, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <texaco-services.com> is registered with OwnRegistrar, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 18, 2023. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 19, 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 (WhoisSecure) and contact information in the Complaint. The Center sent an email communication to the Complainants on July 19, 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 July 20, 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 July 25, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 14, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 18, 2023.

The Center appointed Philippe Gilliéron as the sole panelist in this matter on August 29, 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 San Ramon, California, US that was founded in 1879 and is currently active in over 180 countries.

It 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 company operates in the world's major oil and gas regions and is the second largest energy company in the US.

In 2001, the First Complainant acquired its competitor, Texaco, Inc., and its brand TEXACO. Since then, the brand TEXACO has formed an integral part of the First Complainant's group and brand family. The Complainants manufacture and sell lubricants and other petroleum products under the TEXACO brand around the globe.

The Second Complainant, Chevron Intellectual Property LLC, is the proprietor of a global portfolio of registered trademarks for the term TEXACO. It notably owns, among others, the following trademarks:

- United Kingdom verbal trademark TEXACO (Reg. No. 0000420626A), registered on November 16, 1921, under class 19;
- US verbal trademark TEXACO (Reg. No. 794947), registered on August 24, 1965, under class 37;
- European Union verbal trademark TEXACO (Reg. No. 000142398), registered on November 17, 1998, under classes 1, 4 and 37.

The Complainants operate official websites from the URLs "www.texaco.com" and "www.texacolubricants.com".

On September 1, 2022, the Respondent registered the disputed domain name <texaco-services.com>.

The disputed domain name resolves to an active website which has a similar look and feel of the Complainants' website.

The Respondent's website incorporates the Complainants' TEXACO trademark on top left of the page and throughout the website. The Respondent's website includes the statement "© 2019 TEXACO OVERSEAS INC." in the website footer. The website further incorporates photographs of TEXACO-branded petrol facilities and fuel cards, as well as photos and illustrations apparently from the Complainant's official website at "www.texaco.com" as well as the Complainants' official "About Texaco" text and sub-section located at "www.texaco.com/en_us/home/about-texaco.html".

In addition, the Respondent refers to the Complainant's registered company address. The website furthermore incorporates a YouTube video on its website, which shows the Complainants' official TEXACO TV commercial from 1994 (namely, "1994 Texaco "New generation of clean gasoline" TV Commercial"). The disputed domain name is also configured with MX records.

5. Parties' Contentions

A. Complainants

The Complainants first affirm that the disputed domain name is confusingly similar to its TEXACO trademark in that it entirely incorporates such trademark and only differs by the addition of the generic term "services", which is strongly associated with the Complainants and their activities.

The Complainants then assert that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not known under the term "texaco", does not own any trademark consisting of such term and has never been authorized by the Complainants to use the TEXACO trademark. The impersonation deliberately sought for by the Respondent in the layout of the website related to the disputed domain name cannot be considered a *bona fide* offering of goods and services. The Respondent's website largely copies the look and feel of the Complainants' own website and incorporates the Complainants' TEXACO trademark prominently on top left of the page and throughout the website. The Respondent also falsely presents itself as "© 2019 TEXACO OVERSEAS INC." in the website footer. The website further incorporates photographs of TEXACO-branded petrol facilities and fuel cards, and also includes photos and illustrations taken directly from the Complainant's official website at "www.texaco.com" as well as the Complainants' official "About Texaco" text.

In addition, the Respondent refers to the Complainant's registered company address. The website under the disputed domain name furthermore incorporates a YouTube video on its website, which shows the Complainants' official TEXACO TV commercial from 1994). The disputed domain name is configured with MX records, which means it can be used for email communication.

The Complainants finally consider that the disputed domain name was registered and is being used in bad faith. Taking into account the well-known character of the TEXACO trademark, it is inconceivable that the Respondent was not aware of the Complainants when he registered the disputed domain name. The use made of the disputed domain name as described above is a blatant use in bad faith.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs this Panel to "[...] decide a complaint 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".

Pursuant to paragraph 4(a) of the Policy, the Complainant must prove each of the following three elements to obtain an order that the disputed domain name should be cancelled or transferred:

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

According to the Policy, paragraph 4(a)(i), the Complainants have to prove that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainants have rights.

The Complainants hold numerous word trademarks throughout the world consisting of the word TEXACO whose well-known character is undoubtful as already acknowledged by prior panels (*Chevron Corporation and Chevron Intellectual Property LLC v. Johnson Zhang*, WIPO Case No. [D2022-2846](#)).

UDRP panels widely agree that incorporating a trademark in its entirety into a domain name can be sufficient to establish that the domain name is identical or confusingly similar to a registered trademark for purpose of the Policy (see, e.g., *Uniroyal Engineered Products, Inc. v. Nauga Network Services*, WIPO Case No. [D2000-0503](#); *Thaigem Global Marketing Limited v. Sanchai Aree*, WIPO Case No. [D2002-0358](#); and *F. Hoffmann-La Roche AG v. Relish Entreprises*, WIPO Case No. [D2007-1629](#)). Such happens to be the case here.

The applicable generic Top Level Domain, in the present case “.com”, is usually disregarded under the confusing similarity test and the addition of a term such as “services” does not prevent a finding of confusing similarity (see, among others: *Playboy Entreprises International, Inc. v. Zeynel Demirtas*, WIPO Case No. [D2007-0768](#); *Inter-IKEA Systems B.V. v. Evezon Co. Ltd*, WIPO Case No. [D2000-0437](#); *Dell Computer Corporation v. MTO C.A. and Diabetes Education Long Life*, WIPO Case No. [D2002-0363](#)).

As a result, the Panel considers paragraph 4(a)(i) of the Policy to be satisfied.

B. Rights or Legitimate Interests

According to the Policy, paragraph 4(a)(ii), the Complainant has to demonstrate that the Respondent has no rights or legitimate interests in the disputed domain name.

As the panel stated in *Do The Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#), demonstrating that the Respondent has no rights or legitimate interests in the domain name “would require complainant to prove a negative, a difficult, if not impossible, task”. Thus, in that decision, the panel opined that “[w]here a complainant has asserted that the respondent has no rights or legitimate interests in respect of the domain name, it is incumbent upon the respondent to come forward with concrete evidence rebutting this assertion”. Following that decision, subsequent UDRP panels developed a consensual view that it is deemed sufficient for a complainant to make a *prima facie* case that the respondent lacks rights or legitimate interests in a domain name. Once a *prima facie* case has been made, it is the respondent’s burden to demonstrate its rights or legitimate interests. If it fails to do so, the complainant is deemed to have satisfied to paragraph 4(a)(ii) of the Policy (see, e.g., section 2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”)).

In the present case, the Complainant is the owner of numerous TEXACO trademarks. The Complainant has no business or other relationship with the Respondent. The Complainants thus has made a *prima facie* case showing that the Respondent has no rights or legitimate interests in the disputed domain name.

The website under the disputed domain name refers to a company named “Texaco Overseas Inc”. Noting the similar look and feel of the Respondent’s website with the Complainant’s website, and the fact that the Respondent listed the Complainant’s address on its website, the Panel is of the opinion that the Respondent had the intention to impersonate the Complainant or confuse Internet users into believing that the website under the disputed domain name was authorized by the Complainant.

Absent any Response, there is no doubt in the Panel’s opinion that the Respondent is neither commonly known by the disputed domain name, nor has made a legitimate noncommercial or fair use of the disputed domain name as further evidence by the use made of the disputed domain name as described above, which does obviously not amount to a *bona fide* offering of goods and services.

Consequently, in light of the above, the Panel considers paragraph 4(a)(ii) of the Policy to be fulfilled.

C. Registered and Used in Bad Faith

For a complaint to succeed, a panel must be satisfied that a domain name has been registered and is being used in bad faith (Policy, paragraph 4(a)(iii)).

Bad faith typically requires the Respondent to be aware of the Complainant's trademarks. In the present case, the Complainant is the owner of numerous TEXACO trademarks, which enjoy a worldwide reputation. Considering the reputation of the Complainant's trademarks, the Respondent was obviously aware of the Complainant's trademarks at the time he registered the disputed domain name. As a result, the Panel holds that the disputed domain name was registered in bad faith.

Furthermore, the Respondent's registration of the disputed domain name that is confusingly similar to the well-known trademark TEXACO can, in itself, create a presumption of bad faith (see, e.g., section 3.1.4 of the [WIPO Overview 3.0](#))

This is further evidenced by the use of the website attached to the disputed domain name, whose layout entirely reproduces the Complainants' website in a deliberate attempt to mislead Internet users into making them believe that the disputed domain name would be a Complainant's official website or affiliated to them.

As raised by prior Panels (*Chevron Corporation and Chevron Intellectual Property LLC v. Privacy Service Provided by Withheld for Privacy ehf / Gabriel Levy*, WIPO Case No. [D2022-2616](#)), the configuration of the disputed domain name with MX records enables the Respondent to send emails. While the indication of the MX records in itself is not conclusive of a finding of bad faith, considering the nature of the disputed domain name, the website under the disputed domain name and the intention of the Respondent to impersonate the Complainant, the Panel finds that the activated MX records support the finding on bad faith in this case.

Consequently, the Panel is of the opinion that the disputed domain name has been registered and is being used in bad faith under the 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 <texaco-services.com> be transferred to the Second Complainant.

/Philippe Gilliéron/

Philippe Gilliéron

Sole Panelist

Date: September 12, 2023