

ADMINISTRATIVE PANEL DECISION

Chevron Corporation, Chevron Intellectual Property LLC v. Davis Kim
Case No. D2023-4991

1. The Parties

The Complainant is Chevron Corporation, Chevron Intellectual Property LLC, United States of America (“United States”), represented by Demys Limited, United Kingdom.

The Respondent is Davis Kim, Republic of Korea.

2. The Domain Name and Registrar

The disputed domain name <hesschevron.com> is registered with Megazone Corp., dba HOSTING.KR (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 30, 2023. On December 1, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 20, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

On December 22, 2023, the Center informed the parties in Korean and English, that the language of the registration agreement for the disputed domain name is Korean. On December 22, 2023, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

The Center verified that the 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 January 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 1, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 8, 2024.

The Center appointed Moonchul Chang as the sole panelist in this matter on February 15, 2024. 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 California, United States. 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 Second Complainant is the Complainants' group's intellectual property holding company, incorporated in California, United States.

The Second Complainant owns trademark registrations for CHEVRON in many jurisdictions including:

CHEVRON United States trademark registration number 364683, registered on February 14, 1939
CHEVRON United Kingdom trademark registration number UK00000638572, registered on July 12, 1945
CHEVRON European Union trademark registration number 000095745, registered March 8, 1999.

In addition, the Complainants operate an official website at "www.chevron.com".

According to the Complainant, the Respondent registered the disputed domain name on the same day as the First Complainant announced its acquisition of Hess Corporation, on October 23, 2023. It currently resolves to a parking website with a "coming soon" page.

5. Parties' Contentions

A. Complainant

The Complainants contend that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

(i) the disputed domain name is confusingly similar to its mark and that it only differs by the addition of the third-party mark HESS.

(ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is not a licensee of the Complainants and has not received any permission or consent from the Complainants to use their CHEVRON mark. In addition, the Respondent has not been commonly known as CHEVRON or HESS CHEVRON prior to or after the registration of the disputed domain name.

(iii) the disputed domain name has been registered and is being used in bad faith. Given the fact that the Complainants' trademark is distinctive and well-known, it is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademark. It is likely that the Respondent registered the disputed domain name opportunistically for commercial gain or other the Respondent's benefit. Furthermore, the disputed domain name has been registered on the same day as the First Complainant announced its acquisition of Hess Corporation. The timing of the registration of the disputed domain name further indicates registration in opportunistic bad faith. In addition, the disputed domain name resolves to a parking website with a "coming soon" page which constitutes passive holding. Such passive holding of the disputed domain name constitutes bad faith.

B. Respondent

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

6. Discussion and Findings

6.1 Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Korean. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement. The Complaint was filed in English.

The Complainant requested that the language of the proceeding be English for following reasons: (1) the disputed domain name incorporates the Complainants' English-language mark CHEVRON in Latin characters. (2) The disputed domain name currently resolves to a parked website with the content: "coming soon" and a personalized text of the Respondent which indicates that the Respondent is familiar with the English language. (3) the disputed domain name is registered in the top-level domain which is indicative of the Respondent's intent to target English speaking Internet users. (4) the Complainants' and the Complainants' representative's working language is English and ordering the Complainants to translate the Complaint in English will cause undue delay and burden of unnecessary expense. On the other hand, the Respondent did not make any specific submissions with respect to the language of the proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (Section 4.5.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#))).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

6.2. Consolidation of Complainants

Affiliated companies have standing to file a complaint under the Policy, as prescribed in section 1.4.1. of the [WIPO Overview 3.0](#). According to section 4.11.1. of the [WIPO Overview 3.0](#), 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. The Complaint was filed by two Complainants. Both Complainants belong to the same group of companies. The First Complainant is a multinational energy and technology company, and the Second Complainant is the Complainants' group's intellectual property holding company and holds the registered rights on which is based the Complaint. This Panel finds that the First and the Second Complainants jointly comprising the Complainant have a specific common grievance, and it is equitable and procedurally efficient to allow consolidation in circumstances of this case.

6.3. Substantive Issues

Under paragraph 4(a) of the Policy, the Complainants must demonstrate that the three elements enumerated in paragraph 4(a) of the Policy have been satisfied. These elements are that:

(i) the disputed domain names are identical or confusingly similar to the Complainants' trademark or service mark; 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

It is well accepted that the first element functions primarily as a standing requirement. The threshold test for confusing similarity involves a reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name. (Section 1.7 of the [WIPO Overview 3.0](#)).

The Complainants have shown rights in respect of the CHEVRON trademark for the purposes of the Policy. (Section 1.2.1 of the [WIPO Overview 3.0](#)).

The entirety of the CHEVRON mark is reproduced within the disputed domain name. Where the Complainant's trademark is recognizable within the disputed domain name, the addition of other third-party marks (here HESS), is insufficient in itself to avoid a finding of confusing similarity to the complainant's mark under the first element. (Section 1.12 of the [WIPO Overview 3.0](#)).

The disputed domain name adds a generic Top-Level Domain ("gTLD") which, as a standard requirement of domain name registration, may be disregarded in the comparison between the disputed domain name and the CHEVRON mark. (Section 1.11 of the [WIPO Overview 3.0](#)) Accordingly, the disputed domain name is confusing similar to the mark for the purposes of the Policy. (See [WIPO Overview 3.0](#), section 1.7).

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name. Although 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 difficult 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 (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. ([WIPO Overview 3.0](#), section 2.1).

The disputed domain name resolves to a "coming-soon" webpage. The Panel does not consider this to be a use of the disputed domain name in connection with a bona fide offering of goods or services for the purposes of the Policy, nor is it a legitimate noncommercial or fair use. Nothing in the record indicates that the Respondent has been commonly known by the disputed domain name.

Having reviewed the available record, the Panel finds the Complainants have established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainants' prima facie showing because it has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise. Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy requires that the disputed domain name "has been registered and is being used in bad faith". Thus, for the Complaint to succeed, a UDRP Panel must be satisfied that a domain name has been registered and is being used in bad faith. These requirements are conjunctive; each must be

proven or the Complaint fails. In addition, paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and is being used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. (Section 3.2.1 of the [WIPO Overview 3.0](#)).

First, the Complainant had obtained the registration of CHEVRON trademarks in numerous jurisdictions much earlier than the Respondent registered the disputed domain name. Having considered the longstanding use of the Complainants' trademarks CHEVRON, it is likely that the Respondent has been aware of the Complainants and their mark when registering an identical domain name. Thus, it is considered bad faith registration that the Respondent deliberately chose the disputed domain name to create a likelihood of confusion with the Complainant's trademark so as to create a false association or affiliation with the Complainant.

Next, the disputed domain name resolves to a "coming soon" webpage. Panels have found that the non-use of a domain name including a blank page would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although 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, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). (Section 3.3 of the [WIPO Overview 3.0](#)). The Panel notes the distinctiveness or reputation of the Complainants' trademark, and the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Having reviewed the record, the Panel concludes that the Complainants have satisfied the third element under paragraph 4(a) of the Policy in the present case.

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 <hesschevron.com> be transferred to the Complainants.

/Moonchul Chang/

Moonchul Chang

Sole Panelist

Date: February 29, 2024