

ADMINISTRATIVE PANEL DECISION

Chevron Corporation, Chevron Intellectual Property LLC v. JH Kang Case No. DCO2023-0001

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 JH Kang, Republic of Korea.

2. The Domain Name and Registrar

The disputed domain name <chevrontexacocards.co> 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 January 5, 2023. On January 5, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 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 (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainants on January 10, 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 January 10, 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 January 17, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 6, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 10, 2023.

The Center appointed Anna Carabelli as the sole panelist in this matter on March 20, 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 Complainants are part of a multinational energy and technology company, headquartered in California, United States, primarily engaged in the oil and gas industry.

Founded in 1879, the Complainant Chevron Corporation is currently active in over 180 countries. In 2001, it acquired its competitor Texaco. Chevron Corporation is the second largest energy company in the United States and operates in the world's major oil and gas region under the brand CHEVRON and TEXACO. Products and services carrying the brand CHEVRON and TEXACO include branded retail and commercial lubricants and other petroleum products. Chevron Corporation also manufactures and sells car fuel at CHEVRON and TEXACO branded service stations worldwide, with approximately 7,000 branded retail gasoline service stations in North America alone. As part of this business, it offers credit cards that provide special advantages for cardholder at their gasoline service stations.

The Complainant Chevron Intellectual Property LLC is the intellectual property holding company of the Complainants' group and is the owner of a global portfolio of registered trademarks for CHEVRON and TEXACO, which includes:

- United States trademark registration for CHEVRON, No. 0364683, registered on February 14, 1939;
- United Kingdom trademark registration for CHEVRON, No. UK00000638572, registered on July 12, 1945;
- European Union trademark registration for CHEVRON, No. 000095745, registered on March 8, 1999;
- European Union trademark registration for CHEVRON (fig.), No. 015759095, registered on December 30, 2016;
- European Union trademark registration for TEXACO, No. 000142398, registered on November 17, 1998;
- European Union trademark registration for T TEXACO (fig.), No. 001661057, registered on November 20, 2001.

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

The disputed domain name was registered on November 28, 2022. The uncontested evidence submitted with the Complaint shows that the disputed domain name resolves to a Pay-Per-Click ("PPC") advertising webpage containing third-party commercial advertising links relating to third party credit cards and energy companies, and that the disputed domain name has active mail exchanges ("MX-records").

5. Parties' Contentions

A. Complainant

The Complainants submit and contend that:

The disputed domain name the disputed domain name is confusingly similar to the CHEVRON and the TEXACO trademarks in which the Complainants have rights. In this regard, the Complainants note that the disputed domain name entirely incorporates the Complainants' trademarks, which are distinctive and well known worldwide. The addition of the term "card" does not prevent a finding of confusing similarity. On the contrary, this composition is strongly associated with the Complainants and their activities since the

Complainants (i) produce and sell car fuel offering credit cards for use at their gasoline stations across the world, and (ii) own and operate a domain with identical Second Level Domain, namely “chevrontexacocards,” in the generic Top-Level Domain (“gTLD”) “.com”.

The Respondent has no rights or legitimate interests in the disputed domain name.

The Respondent is not a licensee of the Complainants, and has not received any permission or consent from the Complainants, collectively or singly, to use either of their CHEVRON and TEXACO marks. The Complainants submit that they have found no evidence that the Respondent has been commonly known by the disputed domain name prior to or after its registration, and/or that the Respondent has ever traded legitimately under the names CHEVRON, TEXACO or CHEVRON TEXACO CARDS.

The Complainants contend that given the notoriety of both their CHEVRON and TEXACO marks and the confusing similarity of the disputed domain name to those marks, 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 displays PPC advertising resolving to third party companies that operate in the same business segment as the Complainants and to third party companies that offer credit cards with fuel benefits. In this regard, the Complainants point out that previous UDRP panels have recognized that the use of a domain name to host PPC links does not represent a *bona fide* offering of goods and services where such use compete with or capitalize on the reputation and the goodwill of the complainant’s mark or otherwise mislead Internet users.

The disputed domain name was registered in bad faith, long after registration of the Complainants’ trademarks CHEVRON and TEXACO, which are well reputed internationally. It is therefore inconceivable that the Respondent did not have in mind the Complainants’ marks when it acquired the disputed domain name.

The disputed domain name is being used in bad faith. The Complainants note that according to previous UDRP decisions, the display of PPC advertising in association with a domain name that is confusingly similar to a complainant’s trademark is sufficient on its own for a finding of registration and use in bad faith. Further, the Complainants submit that the disputed domain name is configured with MX records and is therefore capable of email communication. This entails a high risk that the disputed domain name is being used to impersonate the Complainants by sending fraudulent emails, and to mislead internet users.

The Complainants submit that in the years 2020-2021 the Respondent has been involved in at least 17 UDRP proceedings, all of which were decided against the Respondent. These disputes are comparable to the present matter in that the domain names were also registered in the country code Top-Level Domain (“ccTLD”) “.co”> and resolved to websites made up of PPC advertisements which related to the respective complainants’ area of business. The Complainants contend that the above, together with the use of a privacy service supports the finding that the Respondent is engaged in a pattern of bad faith registrations.

Based on the above, the Complainants request that the disputed domain name be transferred to Chevron Intellectual Property LLC.

B. Respondent

The Respondent did not reply to the Complainants’ contentions.

6. Discussion and Findings

6.1 Procedural issue - Consolidation of the Complainants

The Complainants request their consolidation in the present UDRP proceeding.

As recorded in Section 4.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), Paragraph 10(e) of the 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.

Having considered the circumstances of the present case, the Panel finds that the Complainants' request for consolidation has to be accepted, as they are affiliates all having rights in the CHEVRON and in the TEXACO trademarks, and the Respondent's use of the disputed domain name affects their rights and legitimate interests in a similar fashion. The Panel is also unaware of any reasons why it would not be equitable and procedurally efficient to permit such consolidation. Rather, it appears that such consolidation will contribute to the efficiency of the proceeding without denying any party the opportunity to present its case. Therefore, the Panel allows the consolidation of the Complainants in the present proceeding

6.2 Substantive issues

Paragraph 15(a) of the Rules instructs the Panel to decide the Complaint based on the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Under paragraph 4(a) of the Policy, the Complainants must prove each of the following:

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

Paragraph 4(b) of the Policy sets out four illustrative circumstances, which for the purposes of paragraph 4(a)(iii), shall be evidence of registration and use of a domain name in bad faith.

Paragraph 4(c) of the Policy sets out three illustrative circumstances any one of which, if proved by the Respondent, shall be evidence of the Respondent's rights to or legitimate interests in the disputed domain name for the purpose of paragraph 4(a)(ii) above.

A. Identical or Confusingly Similar

The Panel finds that the Complainants have established rights over the trademarks CHEVRON and TEXACO based on the evidence submitted in the Complaint.

The disputed domain name consists of the Complainants trademarks CHEVRON and TEXACO with the addition of the term "cards", followed by the ccTLD ".co".

The ".co" ccTLD is a mere technical requirement for registration. As such, it is typically disregarded for the purposes of consideration of confusing similarity between a trademark and a domain name. See section 1.11 of the [WIPO Overview 3.0](#).

As highlighted in section 1.7 of the [WIPO Overview 3.0](#), the threshold test for confusing similarity typically involves a side-by-side comparison of the disputed domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.

The disputed domain name entirely incorporates the Complainants' marks CHEVRON and TEXACO and this is a sufficient element to establish confusing similarity, as held by previous UDRP panels (e.g., *Banca Mediolanum S.p.A. v. Domains By Proxy, LLC / Marzia Chiarello*, WIPO Case No. [D2020-1955](#); *Virgin Enterprises Limited v. Domains By Proxy LLC, Domainsbyproxy.com / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-1923](#); *Patagonia, Inc. v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2019-1409](#)).

As recorded in section 1.8 of the [WIPO Overview 3.0](#), where the relevant trademark is recognizable within the disputed domain name, the addition of other terms does not prevent a finding of confusing similarity under the first element.

Accordingly, the Panel finds that disputed domain name is confusingly similar to the marks in which Complainants have rights. Therefore, the Complainants have established paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(c) of the Policy, a respondent may demonstrate its rights or legitimate interests in a domain name by showing any of the following circumstances, in particular but without limitation:

- (i) before any notice to it of the dispute, its use of, or demonstrable preparation to use the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods and services;
- (ii) it has been commonly known by the domain name, even if it has acquired no trademark or service mark rights;
- (iii) it is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Complainants contend that the Respondent has no rights or legitimate interests in respect of the disputed domain name, based on the following: (a) the Complainants hold prior rights in the globally registered CHEVRON and TEXACO marks, which are distinctive and well known worldwide, (b) the Respondent has not been authorized to use the Complainants' trademarks in any way, and is not commonly known by the disputed domain name (c) the disputed domain name resolves to a PPC webpage displaying links advertising the services, amongst others, of the Complainants' competitors, and such use does not represent a *bona fide* offering of goods and services.

According to section 2.1 of the [WIPO Overview 3.0](#), while 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 often-impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

Here the Panel finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. By not submitting a response, the Respondent has failed to invoke any circumstance, which could have demonstrated any rights or legitimate interests in the disputed domain name under paragraph 4(c) of the Policy.

In addition, the Panel notes that the Complainants operate the domain name <chevrontexacocards.com>.

The Panel finds that the disputed domain name comprising both the Complainants' trademarks in their entirety and the additional term "cards", carries a risk of implied affiliation with the Complainants. See section 2.5.1 of the [WIPO Overview 3.0](#).

Therefore, the Panel finds that the Complainants have established element 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides a non-exhaustive list of circumstances indicating bad faith registration and use on the part of a domain name registrant, which includes:

"(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location".

In the present proceedings, the Respondent's bad faith registration is established by the fact that the disputed domain name (i) purposefully incorporates the Complainants' CHEVRON and TEXACO trademarks and (ii) was registered long after these trademarks became well known to consumers.

Given the well-established reputation of the Complainants' trademarks (recognized in previous UDRP decisions – see *Chevron Corporation and Chevron Intellectual Property LLC v. Privacy Service Provided by Withheld for Privacy ehf / gabriel levy*, WIPO Case No. [D2022-2616](#); *Chevron Corporation and Chevron Intellectual Property LLC v. David Barrette, david enterprise*, WIPO Case No. [D2022-4890](#)) it is not conceivable that the Respondent did not have in mind the Complainants' trademarks when registering the disputed domain name.

According to the uncontested evidence submitted by the Complainants, the disputed domain name points to a parking page containing PPC links resolving to third party companies that operate in the same business segment as the Complainants and to third party companies that offer credit cards with fuel benefits.

In the Panel's view, the circumstances of the case indicate that the Respondent has registered the disputed domain name with knowledge of the Complainants' trademarks and that the Respondent's primary intent with respect to the disputed domain name is to trade off the value of these. In line with previous UDRP decisions (see section 3.1.4 of the [WIPO Overview 3.0](#)), the Panel finds that the purpose of the Respondent's registration and use of the disputed domain name is to capitalize on the reputation and the goodwill of the Complainants' trademarks and to intentionally attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainants' trademarks.

Moreover, the configuration of the MX-records suggests that the disputed domain name may be used for email communication. Any messages sent from email account at the disputed domain name, noting the almost identity with the Complainants' domain name <chevrontexacocards.com> would likely confuse their recipients that they are receiving communications from or on behalf of the Complainants. Previous UDRP panels have held that such use of a domain name for purposes other than to host a website would constitute bad faith.

Finally, the fact that the Respondent has been named in a number of previous UDRP decisions, ordering the transfer of the concerned domain name to the complainant, further supports a finding of bad faith (see for example; *Boehringer Ingelheim International GMBH v. JH Kang*, WIPO Case No. [DCO2020-0001](#) (regarding the domain name <tradjenta.co>, while the complainant's domain name was <tradjenta.com>).

Therefore, in the light of the above, the Panel finds that the Complainants have established element 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 <chevrontexacocards.co> be transferred to the second Complainant, Chevron Intellectual Property LLC.

/Anna Carabelli/

Anna Carabelli

Sole Panelist

Date: March 30, 2023