

PANEL DECISION

Chevron Corporation, Chevron Intellectual Property LLC, and Chevron Belgium BV v. Kristiina Loodus, AS QLS
Case No. DEU2022-0039

1. The Parties

The Complainants are Chevron Corporation, United States of America (“United States”) (the “First Complainant”), Chevron Intellectual Property LLC, United States (the “Second Complainant”), and Chevron Belgium BV, Belgium (the “Third Complainant”), all represented by Demys Limited, United Kingdom.

The Respondent is Kristiina Loodus, AS QLS, Estonia.

2. The Domain Name, Registry and Registrar

The Registry of the disputed domain name <texacobaltic.eu> is the European Registry for Internet Domains (“EURid” or the “Registry”). The Registrar of the disputed domain name is Zone Media OÜ (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 2, 2022. On December 2, 2022, the Center transmitted by email to the Registry a request for registrar verification in connection with the disputed domain name. On December 5, 2022, the Registry transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the Complaint satisfied the formal requirements of the .eu Alternative Dispute Resolution Rules (the “ADR Rules”) and the World Intellectual Property Organization Supplemental Rules for .eu Alternative Dispute Resolution Rules (the “Supplemental Rules”).

In accordance with the ADR Rules, Paragraph B(2), the Center formally notified the Respondent of the Complaint, and the proceedings commenced on December 9, 2022. In accordance with the ADR Rules, Paragraph B(3), the due date for Response was December 29, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 3, 2022.

The Center appointed Assen Alexiev as the sole panelist in this matter on January 4, 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 ADR Rules, Paragraph B(5).

4. Factual Background

The First Complainant is a multinational energy and technology company founded in 1879 and 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 company operates in the world's major oil and gas regions and is one of the largest energy companies in the United States. The First Complainant is currently active in over 180 countries. In 2001, it acquired its competitor Texaco. Since then, the brand TEXACO forms part of the First Complainant's group and brand family. Texaco's own brand history goes back to 1902, when it was founded in Texas, United States.

The Second Complainant is the Complainants' group's intellectual property holding company and is incorporated in California, United States.

The Third Complainant is one of the Complainants' group entities located in Belgium. It therefore satisfies the general eligibility criteria for registration of .eu domain names set out in Article 3 of Regulation (EU) 2019/517.

The Complainants manufacture and sell car fuel, lubricants and other petroleum products under the TEXACO brand around the globe, including in Latvia, Lithuania, Finland, Poland, Belarus and Estonia.

The Second Complainant is the owner of the following trademark registrations for the sign TEXACO (the "TEXACO trademark"):

- the European Union trademark TEXACO with registration No. 000142398, registered on November 17, 1998 for goods and services in International Classes 1, 4 and 37;
- the Estonian trademark TEXACO with registration No. 12058, registered on July 8, 1994 for goods in International Classes 1 and 4; and
- the European Union trademark T TEXACO (logo) with registration No. 001661057, registered on November 20, 2001 for goods in International Class 4.

The Complainants are the owners of the domain names <texaco.com> and <texacolubricants.com>, which resolve to the Complainants' main website for TEXACO-branded products.

The disputed domain name was registered on January 22, 2010. It is currently inactive. According to the evidence submitted by the Complainants, until December 2020 the disputed domain name directed to a website that featured the TEXACO trademark, offered for sale the Complainants' products under this trademark and contained a notice that the operator of the website is "the representative of Texaco branded products in Estonia."

5. Parties' Contentions

A. Complainants

The Complainants submit that the Respondent is a former sub-distributor of their TEXACO-branded products in Estonia. In 2012, the Respondent entered into an agreement with their primary distributor for the Baltic region. In November 2018, the Respondent was acquired by a direct competitor of the Complainants especially in the lubricant sector. The Complainants' primary distributor for the region sent a termination

letter to the Respondent, and the sub-distributor agreement expired in June 2019. Nevertheless, until at least December 2020 the website at the disputed domain name continued to incorporate a notice that claimed the Respondent was “the representative of Texaco branded products in Estonia”, without including any disclaimers or disclosing the lack of relationship between the Parties.

The Complainants state that the disputed domain name does not currently resolve to an active website, but its zone file is configured with Mail Exchanger (“MX”) records, so it can be used for email communication.

The Complainants note that they have sent the Respondent three cease-and-desist letters following the termination letter of the sub-distribution agreement objecting to and prohibiting any further use of the TEXACO trademark. These letters were sent in November 2018, April 2019, and April 2020. The Complainants objected to the Respondent’s continuing and unauthorized use of the Complainants’ TEXACO trademark and requested the Respondent to transfer the disputed domain name and take down the associated website. The Complainants add that they did not receive any substantive response from the Respondent.

The Complainants state that the disputed domain name is confusingly similar to their TEXACO trademark, because it only differs by the addition of the geographical term “Baltic”. According to them, the geographical term “Baltic” is commonly used to refer to Estonia (where the Respondent is located), Latvia, and Lithuania. The Complainants note that the registration of their earliest TEXACO trademark predates the registration of the disputed domain name by many years. The Complainants maintain that their TEXACO trademark is the dominant element of the disputed domain name. According to them, when combined with the Complainants’ trademark, the descriptive geographical term “Baltic” does not dispel any possibility of confusion.

The Complainants contend that the disputed domain name was registered and is being used in bad faith. According to them, the Respondent was acquired by a direct commercial competitor of the Complainants in the Baltic region in or around November 2018. The Complainants add that since then the disputed domain name has been used to divert traffic intended for the Complainants’ authorized Baltic distributor to the Respondent, a direct competitor of the Complainants, and to derive commercial benefit from causing Internet users to believe that the Respondent is endorsed by or affiliated with the Complainants. The Complainants claim that the Respondent attempted to deceive Internet users into believing that its website was endorsed by or affiliated with the Complainants. They contend that the disputed domain name was intentionally used to attract Internet users by creating a likelihood of confusion, and users are highly likely to believe that the Respondent’s website is affiliated with the Complainants, their products and TEXACO brand. The Complainants note that the website under the disputed domain name was not taken down for two years after the first termination and cease-and-desist letter was sent, which is indicative that the Respondent was not using the disputed domain name for any *bona fide* purpose. The Complainants contend that it is inconceivable that the Respondent could have used the disputed domain name without the TEXACO trademark in mind or with good faith intentions after the termination of the sub-distributor contract.

The Complainants note that at the point of submission of the Complaint the website associated with the disputed domain name is inactive and passively held. The Complainants assert that such passive holding of the disputed domain name constitutes bad faith. The Complainants add that the disputed domain name is nevertheless configured with MX records and is therefore capable of email communication. The Complainants claim that, since the disputed domain name is confusingly similar to the Complainants’ trademark, anyone receiving an email originating from the disputed domain name would reasonably assume that it was sent from the Complainants.

The Complainants request the Panel appointed in this ADR proceeding that the disputed domain name be transferred to the Third Complainant - a company that satisfies the general eligibility criteria for registration of .eu domain names.

B. Respondent

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

6. Discussion and Findings

6.1. Procedural issue - Language of the proceeding

The language of the registration agreement for the disputed domain name is Estonian. The Complainants previously requested to change the language of the ADR proceeding to English. With his decision of January 2, 2021, the Panel in *Chevron Corporation, Chevron Intellectual Property LLC, and Chevron Belgium BV v. Kristiina Loodus, AS QLS*, WIPO Case No. DEUL2020-0005, ordered that the language of this ADR proceeding involving the disputed domain name shall be English.

6.2. Procedural issue - Consolidation of the Complainants

The Complainants request their consolidation in the present ADR proceeding. They point out that prior panels who rendered decisions in cases decided pursuant to the Uniform Domain Name Dispute Resolution Policy ("UDRP"), accepted under certain circumstances a single complaint filed by more than one complainant against a single respondent. The Complainants contend that they have a specific common grievance against the Respondent, in that the Respondent has targeted all three of the Complainants' rights in the TEXACO trademark, and the disputed domain name takes unfair advantage of this trademark. The Complainants also maintain that the Respondent would not be prejudiced by the Complaint being brought by all three Complainants jointly.

The ADR Rules do not expressly contemplate the possibility of an ADR complaint filed jointly by multiple complainants, but also do not prohibit such possibility.

Panels in .EU cases have considered that there are substantive similarities between the ADR Rules and the UDRP, and have referred to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), where appropriate. See, e.g., *Vitalen Otomotiv A.Ş and Vitalen Technology GmbH v. Faith Ünsal*, WIPO Case No. [DEU2022-0001](#). This Panel concurs with these views and finds it appropriate to also make references to the [WIPO Overview 3.0](#) in this decision.

As discussed in 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.

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 TEXACO trademark (see section 6.3.A below), 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.

6.3. Substantive issues

Under Paragraph B(11)(d)(1) of the ADR Rules, the Complainants are required to demonstrate the following:

(i) that the disputed domain name is identical or confusingly similar to a name in respect of which a right is recognized or established by national law of a Member State and/or European Union law; and either

(ii) that the disputed domain name has been registered by the Respondent without rights or legitimate interests in the name; or

(iii) that the disputed domain name has been registered or is being used in bad faith.

In the present ADR proceeding, the Complainants have pleaded the existence of the circumstances under points (i) and (iii) above. Since the circumstances under points (ii) and (iii) above are listed in the alternative, it is not necessary for the Panel to examine the existence of circumstances under point (ii). Therefore, the Panel will examine the existence of circumstances under points (i) and (iii) above in order to reach his decision in the present ADR proceeding.

A. Identical or Confusingly Similar to a name in respect of which a right or rights are recognized or established by national law of a Member State and/or European Union law

Paragraph B(11)(d)(1)(i) of the ADR Rules requires that the disputed domain name be “identical or confusingly similar to a name in respect of which a right is recognized or established by national law of a member State and/or European Union law”. Paragraph (B)(1)(b)(9) of the ADR Rules contains a list of rights which may fulfill the definition of “name in respect of which a right is recognized or established” provided in Paragraph (B)(11)(d)(1)(i) of the ADR Rules. The list includes, *inter alia*: “copyright, trademarks and geographical indications provided in national law or European Union law, and, insofar as they are protected under national law in the Member States where they are held: unregistered trademarks, trade names, business identifiers, company names, family names and distinctive titles of protected literary and artistic works”.

The Complainants have provided evidence that the Second Complainant is the owner of the TEXACO trademark, protected under European Union law and under the national law of Estonia, a Member State of the European Union, thus complying with the requirements of Paragraph B(11)(d)(1)(i) of the ADR Rules.

The Complaint has been filed by three Complainants, which are all members of the same group of companies. The First Complainant is the parent company of the group, and the Third Complainant is one of its subsidiaries. As discussed in section 1.4.1 of the [WIPO Overview 3.0](#), a trademark owner’s affiliate such as a subsidiary of a parent or of a holding company, or an exclusive trademark licensee, is considered to have rights in a trademark under the UDRP for purposes of standing to file a complaint. The Panel is of the opinion that the same principle should also apply in ADR proceedings to the parent company of the respective trademark owner as well as to other members of the same group of companies, especially when, as here, the trademark owner’s primary role is to hold and protect the intellectual property of the group, and it is one of the complainants jointly filing the respective complaint. For this reason, the Panel accepts that all Complainants have rights in the TEXACO trademark for the purposes of standing to file the Complaint.

The disputed domain name incorporates the TEXACO trademark with the additional term “baltic”, which is used to refer to the Baltic Sea and to the region surrounding it, especially to the countries and nations of Latvia, Lithuania and Estonia. The Panel considers that the addition of this geographical term does not prevent a finding of confusing similarity between the disputed domain name and the TEXACO trademark, as the trademark is clearly recognizable within the disputed domain name. Numerous UDRP panels have considered that the addition of other terms (whether geographical, descriptive, pejorative, meaningless, or otherwise) to trademarks in a domain name would not prevent a finding of confusing similarity. See section 1.8 of the [WIPO Overview 3.0](#).

As stated in the vast majority prior cases, the “.eu” country code Top-Level Domain, being a mere technical requirement for registration, 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](#).

The Panel therefore finds that the disputed domain name is confusingly similar to the TEXACO trademark in which the Complainants have rights as required by Paragraph B(11)(d)(1)(i) of the ADR Rules.

B. Registered or Used in Bad Faith

As discussed in section 6.3.A above, the Complainants have rights in the distinctive TEXACO trademark since at least 1994. The disputed domain name was registered in 2010 and incorporates the Complainants' trademark together with the geographical term "baltic", which makes it appear as referring to the Complainants' business in the Baltic region. The Complainants explain that in the period between 2012 and 2018, the Respondent was a sub-distributor of their products in Estonia. The commercial relationship with the Respondent was terminated in late 2018, following which the Complainants demanded the Respondent to stop using the TEXACO trademark and to transfer the disputed domain name to them. The Respondent has not disputed these statements or provided a different description of the development and termination of its relationship with the Complainants and its role in the distribution of TEXACO products in Estonia.

The evidence submitted by the Complainants shows that in December 2020 the disputed domain name directed to a website that featured the TEXACO trademark, offered for sale the Complainants' products under this trademark and contained a notice that the operator of the website is "the representative of Texaco branded products in Estonia." The website did not include any disclaimer for the lack of relationship with the Complainants at that time, although the Respondent's sub-distribution agreement with them had already been terminated two years earlier. The Respondent has not claimed that it was still entitled at the end of 2020 to describe itself as the representative of Texaco branded products in Estonia and has not explained how such statement by it at that time could be considered as having been done in good faith without intent to confuse Internet users. The Respondent has also not responded to the Complainants' cease-and-desist letters following the termination of the sub-distribution agreement. The confusing similarity between the disputed domain name and the TEXACO trademark, coupled with the content of the associated website as of December 2020 could indeed confuse Internet users that the disputed domain name, the associated website were affiliated with or authorized by the Complainants at that time, although the relations between the Parties were terminated two years earlier.

The disputed domain name is also configured with MX records, which indicate the disputed domain name may be used for email communication. Any messages sent from email accounts at the disputed domain name following the termination of the sub-distribution agreement may also confuse their recipients that they are receiving communications from or on behalf of the Complainants. Panels have held that such use of a domain name for purposes other than to host a website may constitute bad faith.

Considering the degree of distinctiveness of the Complainants' mark, the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and the implausibility of any good faith use to which the disputed domain name may be put, the Panel finds furthermore that the current non-use of the disputed domain name does not prevent a finding of bad faith.

Taking into account all the above, and the lack of any contrary allegation or evidence, the Panel finds that the disputed domain name has been used in bad faith by the Respondent in the period following the termination of its sub-distribution agreement with the Complainants.

7. Decision

For the foregoing reasons, in accordance with Paragraph B(11) of the ADR Rules, the Panel orders that the disputed domain name <texacobaltic.eu> be transferred to the Third Complainant.¹

/Assen Alexiev/

Assen Alexiev

Sole Panelist

Date: January 11, 2023

¹ The decision shall be implemented by the Registry within thirty (30) days after the notification of the decision to the Parties, unless the Respondent initiates court proceedings in a Mutual Jurisdiction, as defined in Paragraph A(1) of the ADR Rules.