

ADMINISTRATIVE PANEL DECISION

Chevron Corporation and Chevron Intellectual Property LLC v. David Barrette, david enterprise
Case No. D2022-4890

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 David Barrette, david enterprise, United Arab Emirates.

2. The Domain Name and Registrar

The disputed domain name <chevrontexacoae.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 December 20, 2022. On December 20, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 20, 2022, 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 (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainants on December 21, 2022, 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 December 22, 2022.

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 December 28, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 17, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 18, 2023.

The Center appointed Alistair Payne as the sole panelist in this matter on January 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 the Middle East and United Arab Emirates. 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. In 2001, Chevron Corporation acquired its competitor, Texaco. Since then, the brand TEXACO has formed part of the Chevron Corporation's well-known group and brand family. The Complainant manufactures and sells car fuel, lubricants and other petroleum products under the TEXACO brand around the globe.

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 and TEXACO marks including United States registered trade mark 0364683 registered on February 14, 1939 and European Union registered trade mark 000142398 registered on November 17, 1998. 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 <texaco.com>.

The disputed domain name was registered on March 27, 2022 and at the time that the Complainant first became aware of the disputed domain name it resolved to an active website, which purported to be the Complainant's local website in Dubai, United Arab Emirates. Subsequently and at the time of filing, the disputed domain name does not resolve to an active website.

5. Parties' Contentions

A. Complainant

The Complainant submits that it owns registered trade mark rights as noted above and that the disputed domain name wholly incorporates its CHEVRON and TEXACO registered trade marks and is therefore confusingly similar to each of those trade marks. The Complainant submits that the addition of the descriptive or geographical term "ae" (which it says is a country code for the United Arab Emirates) does not distinguish the disputed domain name and does not prevent a finding of confusing similarity.

The Complainant has submitted that it has found no evidence that the Respondent has been commonly known as "Chevron Texaco" or "Chevron Texaco ae" prior to or after the registration of the disputed domain name. The Complainant submits that the Respondent is not a licensee of the Complainant and has not received any permission or consent from the Complainant, collectively or singly, to use either of their CHEVRON and TEXACO marks. The Complainant says that it has found no evidence that the Respondent owns any trade marks incorporating the terms "Chevron Texaco" or "Chevron Texaco ae". Equally, the Complainant says that it has found no evidence that the Respondent has ever traded legitimately under the names "Chevron Texaco" or "Chevron Texaco ae". The Complainant contends that given the fame of both its marks (as outlined above) 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 Complainant has observed that the disputed domain name previously resolved to a website that purports to be the Complainant's local website in Dubai, United Arab Emirates, as evidenced by:

- the use of the Complainant's CHEVRON marks at the top of the site as well as within text boxes;
- the use of the Complainant's figurative TEXACO mark at the top of the site;
- a similar look and feel to the Complainant's own corporate style including the colour theme and structure of the website;
- the inclusion of similar photographs and other graphical elements;
- the Respondent's references in the text boxes to CHEVRON;
- the Respondent's presentation as "Chevron Company, Dubai".

The Complainant contends that no such misleading and confusing use could relate to a genuine, *bona fide* offering of goods and services and that such use could not grant the Respondent a legitimate interest in the disputed domain name. Further, the Complainant submits that the fact that the disputed domain name does not currently resolve to an active website does not establish a *bona fide* use or legitimate interest.

The Complainant submits that as a result of incorporating the Complainant's two registered trade marks into the disputed domain name, it is at first glance confusing to Internet users. Prior to the filing of this Complaint the Complainant notes that the website to which the disputed domain name resolved did not dispel this confusion but rather reinforced it as the website largely copied the "look and feel" of the Complainant's website and also incorporated the Complainant's CHEVRON and TEXACO word and figurative marks prominently on the top left of the website and throughout the website.

The Complainant further notes that the Respondent falsely presented itself as "Chevron Company Dubai" on the website, without any such authorisation, which it says amounts to it publishing a United Arab Emirates copycat version of the Complainant's official website at <chevron.com>. This implies, says the Complainant, that the Respondent was aware of the Complainant's business, name and trade marks and in addition this amounts to the Complainant intentionally using the disputed domain name to intentionally attempt to attract for commercial gain Internet users to its website by creating a likelihood of confusion with the Complainant's trade mark. Finally, says the Complainant, the Respondent's use of a privacy service to mask its identity is a further indication of bad faith use and registration of the disputed domain name.

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 that it owns various registered trade mark rights for the CHEVRON and TEXACO marks including United States registered trade mark 0364683 registered on February 14, 1939 and European Union registered trade mark 000142398 registered on November 17, 1998. The disputed domain name wholly incorporates the CHEVRON and TEXACO registered trade marks and is therefore confusingly similar to each of those trade marks. The addition of the term "ae" does not prevent a finding of confusing similarity. Accordingly, the Panel finds that the Complaint succeeds under the first element of the Policy.

B. Rights or Legitimate Interests

The Complainant has submitted it has found no evidence that the Respondent has been commonly known as “Chevron Texaco” or “Chevron Texaco ae” prior to or after the registration of the disputed domain name. The Complainant has also submitted that the Respondent is not a licensee of the Complainant and has not received any permission or consent from the Complainant, collectively or singly, to use either of their CHEVRON and TEXACO marks. The Complainant has also said that it has found no evidence that the Respondent owns any trade marks incorporating the terms “Chevron Texaco” or “Chevron Texaco ae”. Equally, the Complainant has asserted that there is no evidence that the Respondent has ever traded legitimately under the names “Chevron Texaco” or “Chevron Texaco ae”.

The Complainant has observed that the disputed domain name previously resolved to a website that purports to be the Complainant’s local website in Dubai, United Arab Emirates, and has noted on the website:

- the use of the Complainant’s CHEVRON marks at the top of the site as well as within text boxes;
- the use of the Complainant’s figurative TEXACO mark at the top of the site;
- a similar look and feel to the Complainant’s own corporate style including the colour theme and structure of the website;
- the inclusion of similar photographs and other graphical elements;
- the Respondent’s references in the text boxes to CHEVRON;
- the Respondent’s presentation as “Chevron Company, Dubai”.

Having reviewed the screenshots of the website put in evidence, the Panel agrees with the Complainant that no such misleading and confusing use could relate to a genuine, *bona fide* offering of goods and services and that such use does not grant the Respondent a legitimate interest in the disputed domain name.

Considering the very considerable goodwill attaching to the Complainant’s CHEVRON and TEXACO marks and the confusing similarity of the disputed domain name to those marks and the use made of the disputed domain name as described above, the Panel agrees with the Complainant that there is no conceivable use to which the disputed domain name could be put by the Respondent that would afford it a legitimate interest. The fact that the disputed domain name does not currently resolve to an active website does not establish a *bona fide* use or legitimate interest.

In these circumstances, the Panel finds that the Complainant has made out a *prima facie* case that the Respondent has no rights or legitimate interests in any of the disputed domain names. The Respondent has failed to respond to or to rebut the Complainant’s case and for these reasons and for the reasons set out under Part C below, the Panel finds that the Complaint also succeeds under this element of the Policy.

C. Registered and Used in Bad Faith

The disputed domain name was registered on March 27, 2022, many years after the registration of the Complainant’s CHEVRON and TEXACO marks, and at the time that the Complainant first became aware of the disputed domain name it resolved to an active website which purported to be the Complainant’s local website in Dubai, United Arab Emirates. The Complainant’s CHEVRON and TEXACO marks are well reputed internationally and the fact that the word and logo marks were used without its authority on the website to which the disputed domain name formerly resolved strongly suggests to the Panel that the Respondent was very well aware of the Complainant, its business and marks at the date of registration of the disputed domain name.

Under paragraph 4(b)(iv) of the Policy there is evidence of registration and use of the disputed domain name in bad faith where a Respondent has used the disputed domain name to intentionally attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trade marks as to the source, sponsorship, affiliation or endorsement of the website.

The Respondent's blatant initial use of each of the disputed domain name incorporating the Complainant's well reputed and distinctive CHEVRON and TEXACO marks to attract and confuse Internet users and to divert them to a page which appeared to masquerade as if it was the Complainant's official United Arab Emirates page and which was obviously intended to confuse Internet users, most likely for fraudulent purposes or for the commercial benefit of the Respondent, fulfills the requirements of paragraph 4(b)(iv) of the Policy and amounts to evidence of registration and use of each of the disputed domain name in bad faith.

The fact that since the filing of this dispute the disputed domain name resolves to an empty page does not alter the Panel's view of the Respondent's bad faith. Rather, the fact that in all the circumstances, the Respondent attempted to mask its identity, only reinforces the Panel's view of the Respondent's bad faith.

The Panel therefore finds that the disputed domain name has been both registered and used in bad faith and that the Complaint also succeeds under this element 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 <chevrontexacoae.com> be transferred to the Complainant.

/Alistair Payne/

Alistair Payne

Sole Panelist

Date: February 3, 2023