

ADMINISTRATIVE PANEL DECISION

Chevron Corporation and Chevron Intellectual Property LLC v. Privacy Service Provided by Withheld for Privacy ehf / gabriel levy
Case No. D2022-2616

1. The Parties

The Complainants are Chevron Corporation, United States of America, and Chevron Intellectual Property LLC, United States of America, represented by Demys Limited, United Kingdom (“U.K.”).

The Respondent is Privacy Service Provided by Withheld for Privacy ehf, Iceland / gabriel levy, Brazil.

2. The Domain Name and Registrar

The disputed domain name <chevroneg.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 July 18, 2022. On July 19, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 19, 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 and contact information in the Complaint. The Center sent an email communication to the Complainants on July 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 July 21, 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 July 26, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 15, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 17, 2022.

The Center appointed Peter Burgstaller as the sole panelist in this matter on August 23, 2022. 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 disputed domain name was registered on March 12, 2022.

The Second Complainant is the Complainants' group's intellectual property holding company and is the owner of the CHEVRON registered rights which the First Complainant relies on, *inter alia*:

- United States of America Registration No. 364683, registered February 14, 1939, International Class 4;
- European Union Trade Mark registrations No. 95745, registered March 8, 1999, International Classes 1, 2, 3, 4, 16, 17, and 19, and No. 15759095 (device), registered December 30, 2016, International Classes 35, 37, and 39;
- German Registration No. 831256, registered March 28, 1967, International Classes 1, 2, 4, 5, 6, 7, 16, 19, and 21; and
- U.K. Registration No. 638572, registered July 12, 1945, International Class 4 (Annex 11 to the Complaint).

The Complainants are one of the world's leading oil and gas companies, operating around the world under their CHEVRON mark (Annexes 7 and 8 to the Complaint).

The disputed domain name resolved to a pay-per-click advertising webpage containing third-party commercial advertising links related to the Complainants' worldwide scale business and activities, namely, energy production (Annex 9 to the Complaint).

The disputed domain name's zone file is configured with Mail eXchanger ("MX") records, which allows the use for email communication (Annex 10 to the Complaint).

5. Parties' Contentions

A. Complainant

The First Complainant is a multinational energy and technology company headquartered in San Ramon, California, United States of America. 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. It operates in the world's major oil and gas regions and is the second largest energy company in the United States of America, founded in 1879 and currently active in over 180 countries, operating brands including Chevron, Texaco, and Caltex.

The Second Complainant is Complainants' group's intellectual property holding company and is located in San Ramon, California, United States of America. It, *inter alia*, holds CHEVRON registered rights which the First Complainant relies on, around the world and from 1939 onwards.

The Complainants (also referred to as the "First and Second Complainant") moreover operate an official website under the domain name <chevron.com>.

The disputed domain name was registered on March 12, 2022, and is confusingly similar to the Complainants CHEVRON marks in that it only differs by the addition of the term "esg" - presumably in this context an initialism of "Environmental, Social and Governance", often used when referring to a company's performance and impact report.

The Complainants' mark is the most prominent, dominant, and distinctive element of the disputed domain name. When combined with the Complainants' well-known mark, the adornment "esg", does not dispel any

possibility of confusion but instead do the opposite and increase the potential for confusion among Internet users.

Moreover, the Respondent does not have any rights or legitimate interests in the disputed domain name; it is not known as CHEVRON, or makes any other legitimate noncommercial use of the mark CHEVRON.

Finally, the disputed domain name was registered and is being used in bad faith by the Respondent: Given that the Complainants' CHEVRON marks are well known, it is inconceivable that the Respondent did not have the Complainants firmly in mind when it acquired the disputed domain name; this constitutes bad faith registration.

The disputed domain name moreover resolves to a pay-per-click advertising webpage containing third-party commercial advertising links related to the Complainants' well-known and worldwide scale business and activities, namely, energy production. This is bad faith use of the disputed domain name.

The disputed domain name is furthermore configured with MX records and is therefore capable of email communication, so that anyone receiving an email originating from the disputed domain name would reasonably assume that it was sent from the Complainants.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

According to paragraph 4(a) of the Policy, the Complainants must prove that

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests with respect to 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

The Complainants submitted evidence, which incontestably and conclusively establishes rights in the trademark CHEVRON.

The disputed domain name is confusingly similar to the Complainants' registered trademark CHEVRON since it entirely contains this famous and distinctive mark and only adds the term "esg" (a common abbreviation for "Environmental, Social and Governance", often used when referring to a company's performance and impact report) as suffix to the Complainants' CHEVRON mark.

It has long been established under UDRP decisions that where the relevant trademark is recognizable within the disputed domain name the mere addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) will not prevent a finding of confusing similarity under the first element of the Policy (see section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition "[WIPO Overview 3.0](#)").

This is particularly true, if the entire trademark is reproduced in the domain name and the trademark is distinctive and famous, as it is the case at present (see section 1.7 of the [WIPO Overview 3.0](#)).

Finally, it has also long been held that generic Top-Level Domains are generally disregarded when evaluating the confusing similarity of a disputed domain name.

The Panel therefore finds that the Complainants have satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

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 (see section 2.1 of the [WIPO Overview 3.0](#)). Here, the Complainants have put forward a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, which has not been rebutted by the Respondent.

Furthermore, the nature of the disputed domain name, comprising the Complainants’ famous and distinctive mark in its entirety together with the suffix “esg”, cannot be considered fair as it falsely suggest an affiliation with the Complainants that does not exist (see section 2.5 of the [WIPO Overview 3.0](#)).

Also, the fact that the disputed domain name addresses a website with pay-per-click advertising does not constitute a use in connection with a *bona fide* offering of goods or services within the meaning of the Policy.

Noting the above, and in the absence of any Response or allegations from the Respondent, the Panel finds that the Complainants have satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

As stated in many decisions rendered under the Policy (e.g. *Robert Ellenbogen v. Mike Pearson*, WIPO Case No. [D2000-0001](#)) both conditions, registration and use in bad faith, must be demonstrated; consequently, the Complainant must show that:

- the disputed domain name was registered by the Respondent in bad faith, and
- the disputed domain name is being used by the Respondent in bad faith.

(i) The Complainants have rights and are the owner of the well-known, famous, and highly distinctive registered trademark CHEVRON, which is registered and used in many jurisdictions around the world since decades. Moreover, the Complainants registered and are using the domain name <chevron.com> (among others) for addressing the official website of the Complainants.

It is inconceivable for this Panel that the Respondent registered or has used the disputed domain name without knowledge of the Complainants’ rights in CHEVRON, which leads to the necessary inference of bad faith. This finding is supported by the fact that the disputed domain name incorporates the Complainants’ distinctive trademark CHEVRON entirely. The suffix “esg” rather strengthens this impression, since “esg” is a common abbreviation for “Environmental, Social, and Governance” and is often used when referring to a company’s performance and impact report.

Therefore, the Panel is convinced that the disputed domain name was registered in bad faith by the Respondent.

(ii) The disputed domain name was actively used for pay-per-click advertising: Panels have consistently found that pay-per-click links in association with a domain name which is confusing similar to a complainant’s

trademark shows bad faith use, even in respect to “automatically” generated pay-per-click links (see section 3.5 of the [WIPO Overview 3.0](#)).

Moreover, the disputed domain name is configured with MX records and is therefore capable of email communication. The Respondent can therefore use the disputed domain name to send fraudulent emails such as messages containing spam or phishing attempts; phishing can never confer rights or legitimate interests on a respondent, such behavior is manifestly considered evidence of bad faith (see section 3.1.4 of the [WIPO Overview 3.0](#)).

Finally, Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith (see section 3.1.4 of the [WIPO Overview 3.0](#)).

Furthermore, this Panel also finds bad faith use, putting emphasis on the following:

- the Complainants' trademark CHEVRON is famous with a high distinctiveness and is well known globally since decades;
- the Respondent has failed to present any evidence of any good faith use with regard to the disputed domain name;
- the disputed domain name incorporates the Complainants' trademark in its entirety, and is thus suited to divert or mislead potential web users from the website they are actually trying to visit (the Complainants site); and
- there is no conceivable plausible reason for good faith use with regard to the disputed domain name.

Taking all these facts and evidence into consideration, this Panel finds that the disputed domain name has been registered and used in bad faith under 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, <chevroneg.com>, be transferred to the Second Complainant.

/Peter Burgstaller/

Peter Burgstaller

Sole Panelist

Date: September 5, 2022