

ADMINISTRATIVE PANEL DECISION

Chevron Corporation and Chevron Intellectual Property LLC v. Scott Herberg Case No. D2023-0238

1. The Parties

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

The Respondent is Scott Herberg, United States of America.

2. The Domain Name and Registrar

The disputed domain name <chevronmotoroil.com> 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 19, 2023. On January 19, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 19, 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 23, 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 23, 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 February 6, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 26, 2023. The Respondent sent informal communications to the Center on January 23 and 27, 2023, on February 6, 17, and 28, 2023. The Respondent did not submit any formal response. Accordingly, the Center notified the parties that it would proceed to panel appointment on February 28, 2023.

The Center appointed Ezgi Baklacı Gülkökar as the sole panelist in this matter on March 13, 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 (1) Chevron Corporation, a USA based multinational energy and technology company engaged in oil and gas industry, and (2) Chevron Intellectual Property LLC, a USA based company holding is the Complainants' group's intellectual property rights (the "Complainant" or the "Complainants").

Chevron Corporation and most of its subsidiaries operates over 180 countries under their trademark and trade name Chevron. According to the evidence submitted at Annex 3 to the Complaint the Complainant offers CHEVRON branded lubricants and motor oils and other services including CHEVRON branded gasoline service stations which operate in USA.

Chevron Intellectual Property LLC, holds many trademark registrations in the United States and worldwide for its CHEVRON marks, including for example, United States Trademark Registration Reg. No. 364683 registered on February 14, 1939, in Class 15 and United Kingdom registration Reg. No. UK00000638572 registered on July 12, 1945, in class 4 and other trademarks covering a wide range of goods and services according to the evidence provided at Annex 9 to the Complaint.

The Complainants are also operating the domain names including its CHEVRON trademark <chevron.com> and <chevronlubricants.com> and owns social media accounts with the trademark.

The disputed domain name was registered on January 2, 2023. As of the date of this Decision, the disputed domain name is resolving to an inactive website. However, according to the extracts provided at Annex 8 to the Complaint the disputed domain name redirected to a third-party webpage at "www.syntheticoilnw.com" which presents itself as an independent dealer of lubricants including a third party product "Amsoil"; and visitors redirected to <amsoil.com> which is the Complainants' competitor when they follow the links on the disputed domain name.

5. Parties' Contentions

A. Complainant

The Complainant contends that each of the three elements specified in paragraph 4(a) of the Policy is satisfied in the present case, as follows:

The Complainants argue that the disputed domain name is confusingly similar to the Complainants' registered CHEVRON mark because it consists of its trademark in its entirety together with the term "motor oil" as well as the generic Top-Level Domain ("gTLD") ".com" which is required for technical reasons and can be ignored. The Complainants also note that the registration of the earliest trademark of the Complainants' predates the registration of the disputed domain name by more than 83 years.

The Complainants argue that the Respondent has no rights or legitimate interests in the disputed domain name. Further, the Complainants argue that the Respondent is neither a licensee nor authorized to use the trademark and they have found no evidence that the Respondent has been commonly known as "chevron" or "chevron motor oil". Therefore, the Respondent has no rights to any trademark consisting of or incorporating the Complainants' mark, or to the disputed domain name.

Further, the Complainants argue that according to the extracts at Annex 8 to the Complaint the disputed domain name redirected users to a third-party shop selling competing lubricant products and such use does

not support a claim to rights or legitimate interests and does not and cannot confer any legitimate interest on the Respondent.

The Complainants argue that disputed domain name was registered and used in bad faith and that the Respondent is taking unfair advantage of or abuses the Complainants' mark by attempting to attract, for commercial gain Internet users to its website by creating a likelihood of confusion with the Complainants' trademarks and redirects users to a third-party website which sells competing goods.

In summary, the Complainant asserts that it has established all three elements required under paragraph 4(a) of the Policy for a transfer of the disputed domain name.

B. Respondent

The Respondent did not formally reply to the Complainants' contentions except several informal communications including on January 23 and 27, 2023, sent by the Respondent saying that the Complainants' can have the disputed domain name.

6. Discussion and Findings

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to the trademarks or service marks in which the Complainant has rights; 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

The disputed domain name consists of the registered trademark CHEVRON and the term "motor oil". In cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will be considered confusingly similar (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)", section 1.7).

The element "motor oil" in the disputed domain name does not prevent the finding of confusingly similarity as the Complainant's trademark CHEVRON remains clearly recognizable ([WIPO Overview 3.0](#), section 1.8).

The Panel agrees that the TLD ".com" is disregarded in the confusing similarity test, as it does not form part of the comparison as it is a standard registration requirement for technical reasons ([WIPO Overview 3.0](#), section 1.11.1).

The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademarks and that the first element of paragraph 4(a) of the Policy is satisfied.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name. While the overall burden of proof in UDRP proceedings is on the complainant, previous UDRP panels have recognized that proving that a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of proving a negative, *i.e.*, 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 ([WIPO Overview 3.0](#), section 2.1).

The Panel notes that there is no evidence showing that the Respondent holds any right for CHEVRON trademarks. The Panel also notes that there is no evidence showing that the Respondent is authorized or licensed to use the trademark CHEVRON.

As of the date of this decision, the disputed domain name resolves to an inactive website. The Panel also notes that evidence provided by the Complainants' show that the disputed domain name was redirecting Internet users to a third-party webpage "www.syntheticoilnw.com" which presents itself as an independent dealer of lubricants including a third party product "Amsoil"; and visitors further redirected to <amsoil.com> which is the Complainant's competitor when they follow the links on the disputed domain name. A respondent's use of a complainant's mark to redirect users (e.g., to a competing site) would not support a claim to rights or legitimate interests ([WIPO Overview 3.0](#), section 2.5.3). The Panel finds that use of the disputed domain name cannot amount to a *bona fide* offering of goods and services or a legitimate noncommercial or fair use.

Therefore, the Panel finds that the Respondent does not have rights or any legitimate interests in the disputed domain name within the meaning of Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy provides that a complainant must demonstrate that the disputed domain name has been registered and is being used in bad faith. Bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's trademark ([WIPO Overview 3.0](#), section 3.1).

The Panel finds that at the time the disputed domain name was registered the Respondent more likely than not was aware of the trademarks CHEVRON as the Complainants' trademark registrations as well as its domain names predate the registration date of the disputed domain name. The Respondent knew or should have known about the Complainants' rights, and such information can be reached by a quick online search (see *Compart AG v. Compart.com / Vertical Axis Inc.*, WIPO Case No. [D2009-0462](#)).

In addition, previous UDRP panels have held that the mere registration of a domain name that is 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 ([WIPO Overview 3.0](#), section 3.1.4). The disputed domain name is so obviously connected with the Complainant and its products that already its very use by the Respondent, which has no connection with the Complainant, clearly suggests the disputed domain name has been selected with a deliberate intent to create an impression of an association with the Complainant (see *General Motors LLC v. desgate.*, WIPO Case No. [D2012-0451](#)).

Further, Panel finds that the Respondent takes advantage of the Complainants' trademark to redirect Internet users to the website of the Complainants' competitor. The Respondent's action supports a finding of bad faith use. See [WIPO Overview 3.0](#), section 3.1.3.

In the circumstances, the Panel finds that the Respondent registered and has been using the disputed domain name in bad faith, and paragraph 4(a)(iii) of the Policy has been satisfied.

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, <chevronmotoroil.com>, be transferred to Chevron Intellectual Property LLC.

/Ezgi Baklacı Gülkökar/

Ezgi Baklacı Gülkökar

Sole Panelist

Date: March 17, 2023