

ADMINISTRATIVE PANEL DECISION

Chevron Corporation and Chevron Intellectual Property LLC v. Guillermo Arboleda

Case No. D2023-3247

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 Guillermo Arboleda, Colombia.

2. The Domain Name and Registrar

The disputed domain name <segurostexacoltda.com> is registered with Gransy s.r.o d/b/a subreg.cz (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 27, 2023. On July 28, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 31, 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 (Not Disclosed Not Disclosed, My Domain Provider) and contact information in the Complaint. The Center sent an email communication to the Complainants on July 31, 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 August 2, 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 August 8, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 28, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 29, 2023.

The Center appointed Edoardo Fano as the sole panelist in this matter on September 6, 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.

The Panel has not received any requests from the Complainants or the Respondent regarding further submissions, waivers or extensions of deadlines, and the Panel has not found it necessary to request any further information from the Parties.

Having reviewed the communication records in the case file provided by the Center, the Panel finds that the Center has discharged its responsibility under the Rules, paragraph 2(a), “to employ reasonably available means calculated to achieve actual notice to [the] Respondent”. Therefore, the Panel shall issue its Decision based upon the Complaint, the Policy, the Rules and the Supplemental Rules and without the benefit of a response from the Respondent.

The language of the proceeding is English, being the language of the Registration Agreement, as per paragraph 11(a) of the Rules.

4. Factual Background

The Complainants are Chevron Corporation and Chevron Intellectual Property LLC, both of which were incorporated in the United States, the former operating as a multinational company in the energy and technology field, and the latter being its group’s intellectual property holding company, owning several trademark registrations worldwide for TEXACO, among which:

- United Kingdom Trademark Registration No. UK0000420626A for TEXACO, registered on November 16, 1921;
- United States Trademark Registration No. 794947 for TEXACO, registered on August 24, 1965;
- Colombian Trademark Registration No. 83676 for TEXACO, registered on December 17, 1974;
- European Union Trade Mark Registration No. 000142398 for TEXACO, registered on November 17, 1998.

The Complainants are hereinafter referred to as the “Complainant”.

The Complainant also operates on the Internet with the official websites being “www.texaco.com” and “www.texacolubricants.com”.

The Complainant provided evidence in support of the above.

According to the Whois records, the disputed domain name was registered on February 19, 2023, and it is inactive. However, when the Complaint was filed, the disputed domain name resolved to a website in which the Complainant’s trademark was reproduced, and a car insurance service was purportedly offered for sale by a self-declared Texaco Ltda. When Internet users clicked on sub-sections on the website headlined such as “benefices” (English translation: “proceeds”), “comprar” (English translation: “buy”), or “whatsapp”, they were redirected to a chat window, prominently using the Complainant’s logo.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to the trademark TEXACO.

Moreover, the Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name, since it has not been authorized by the Complainant to register the disputed domain name or to use the trademark within the disputed domain name, it is not commonly known by the disputed domain name, and it is not making either a *bona fide* offering of goods or services or a legitimate noncommercial or fair use of the disputed domain name. The disputed domain name resolves to a website in which the Complainant's trademark and logo are reproduced, and a car insurance service is purportedly offered for sale by a self-declared Texaco Ltda.

The Complainant submits that the Respondent has registered the disputed domain name in bad faith, since the Complainant's trademark TEXACO is well known in the energy and technology field. The Complainant also offers a wide range of insurances, such as car, home and life insurances to its employees in the United States, such as former Texaco life insurance. Therefore, the Respondent targeted the Complainant's trademark at the time of registration of the disputed domain name and the Complainant contends that the use of the disputed domain name to attract, for commercial gain, Internet users to the Respondent's website, creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website, qualifies as bad faith registration and use. Finally, the Complainant suspects that the Respondent might also use the disputed domain name in connection with phishing or fraudulent email communications, since the mail exchanger (MX) records attached to the disputed domain name have been activated.

B. Respondent

The Respondent has made no reply to the Complainant's contentions and is in default. In reference to paragraphs 5(f) and 14 of the Rules, no exceptional circumstances explaining the default have been put forward or are apparent from the record.

A respondent is not obliged to participate in a proceeding under the Policy, but if it fails to do so, reasonable facts asserted by a complainant may be taken as true, and appropriate inferences, in accordance with paragraph 14(b) of the Rules, may be drawn. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.3.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists three elements, which the Complainant must satisfy in order to succeed:

- (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 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

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of the other terms, here “seguros” (meaning “insurances” in English) and “Itda” (meaning “Ltd” in English), may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

It is also well accepted that a generic Top-Level Domain, in this case “.com”, is typically ignored when assessing the similarity between a trademark and a domain name. [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

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. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Panel notes that the disputed domain name resolved to a website in which the Complainant’s trademark was reproduced, and a car insurance service was purportedly offered for sale by a self-declared Texaco Ltda. Further, sub-sections on the website could redirect Internet users to a chat window, prominently using the Complainant’s logo. As evidenced by the Complainant, it also offers a wide range of insurances, such as car, home and life insurances to its employees. The Panel finds that the nature of the disputed domain name is inherently misleading and carries a risk of implied affiliation ([WIPO Overview 3.0](#), section 2.5.1), and use of the Complainant’s trademark and logo on the website at the disputed domain name for providing similar services to those offered by the Complainant would mislead Internet users into believing that the website is sponsored or endorsed by the Complainant, contrary to the fact.

Moreover, although the disputed domain name reflects the company name on the website, and the additional term in the disputed domain name apparently corresponds to the services purportedly offered on the website, there is no evidence showing that the Respondent or the company Texaco Ltda is commonly known by the disputed domain name. Rather, the use of the Complainant’s trademark and logo on the website leads the Panel to conclude it is most likely that the Respondent registered the disputed domain name targeting the Complainant’s trademark and its business.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, regarding the registration in bad faith of the disputed domain name, the reputation of the Complainant's trademark TEXACO in the energy and technology field is clearly established, and the Panel finds that the Respondent must have known of the Complainant, and deliberately registered the disputed domain name in bad faith, especially because of the previous content of the Respondent's website at the disputed domain name, in which the Complainant's trademark and logo were reproduced, and car insurance service was purportedly offered for sale by a self-declared Texaco Ltda.

The Panel further notes that the disputed domain name is also being used in bad faith since the Respondent was trying to attract Internet users to its website by creating likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation or endorsement of the website, an activity clearly detrimental to the Complainant's business.

The above suggests to the Panel that the Respondent has intentionally registered and used the disputed domain name in order to attract Internet users to its website for commercial gain in accordance with paragraph 4(b)(iv) of the Policy. Such use also disrupts the Complainant's business.

As regards the fact that the disputed domain name is currently inactive, panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put. [WIPO Overview 3.0](#), section 3.3. Having reviewed the record, the Panel notes the distinctiveness and reputation of the Complainant's trademark, the composition and the previous use of the disputed domain name, and the Respondent's failure to formally participate, and finds that in the circumstances of this case, the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Furthermore, the Panel considers that the nature of the inherently misleading disputed domain name, which includes the Complainant's trademark in its entirety with the mere addition of the terms "seguros" and "Ltda", further supports a finding of bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Based on the available record, the Panel finds the third element of the Policy has been established.

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 <segurostexacoltda.com> be transferred to the Complainant, Chevron Intellectual Property LLC.

/Edoardo Fano/

Edoardo Fano

Sole Panelist

Date: September 15, 2023