

## **ADMINISTRATIVE PANEL DECISION**

Ovintiv Trademarks Inc. v. Sean Cahill

Case No. D2025-1138

### **1. The Parties**

The Complainant is Ovintiv Trademarks Inc., United States of America ("United States"), represented by Gowling WLG (Canada) LLP, Canada.

The Respondent is Sean Cahill, United States.

### **2. The Domain Name and Registrar**

The disputed domain name <ovinitiv.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 March 19, 2025. On March 20, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 20, 2025, 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 (Redacted For Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 24, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on March 31, 2025.

The Center verified that the Complaint together with the amendment to the 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 April 1, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 21, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 22, 2025.

The Center appointed Steven Auvil as the sole panelist in this matter on April 30, 2025. 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 Complainant is a leading North American oil and natural gas exploration and production company. The Complainant maintains a multi-basin portfolio of top tier oil and natural gas assets located in the United States and Canada. The Complainant's operations also include marketing oil, natural gas liquids, and natural gas.

The Complainant is the owner of United States trademark registration No. 7108219 for OVINTIV, registered July 11, 2023, and the Canadian trademark registration No. TMA1281899 for OVINTIV, registered, January 10, 2025. The Complainant also owns the domain name <ovintiv.com> for the OVINTIV brand.

The disputed domain name was registered on January 16, 2025. Currently, the disputed domain name resolves to an inactive web page, displaying an Internet error message stating: "this site can't be reached."

#### **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 Complainant's OVINTIV mark. The Complainant alleges that the disputed domain name contains a typo-squatted version of the Complainant's OVINTIV mark in that the Respondent added the letter "i" to the OVINTIV mark in between the letters "n" and "t".

The Complainant next contends that the Respondent has no rights or legitimate interests in the disputed domain name because there is no evidence to suggest that the Respondent has ever used or demonstrated preparations to use the disputed domain name in connection with a bona fide offering of goods or services. The Complainant also alleges that there has never been any relationship between the Complainant and the Respondent and that the Respondent is not licensed, or otherwise authorized to register or use, the OVINTIV mark in any manner whatsoever, including in a domain name.

Finally, the Complainant contends that the disputed domain name was registered and being used in bad faith. The Complainant alleges that the disputed domain name is being used in an attempt to attract, for commercial gain, Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's OVINTIV mark. The Complainant further alleges that given the Respondent's typosquatting activities, the Respondent had knowledge of the Complainant's OVINTIV mark at the time of registration, thereby supporting a finding of bad faith.

The Complainant requests that the disputed domain name be transferred to the Complainant.

##### **B. Respondent**

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

## 6. Discussion and Findings

According to paragraph 15(a) of the Rules: “[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.” Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following to obtain relief:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or a service mark in which the complainant has rights;
- (ii) that the respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

In view of the Respondent’s failure to submit a Response, the Panel is entitled to accept as true the allegations set forth in the Complaint (unless the evidence is clearly contradictory), and to derive reasonable inferences from the evidence presented. See *Talk City, Inc. v. Michael Robertson*, WIPO Case No. [D2000-0009](#).

Based on the foregoing guidance, the Panel makes the following findings and conclusions based on the allegations and evidence contained in the Complaint, as amended, and reasonable inferences drawn from the evidence presented.

### 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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[WIPO Overview 3.0](#)”), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy as the Complainant owns at least one trademark for OVINTIV. [WIPO Overview 3.0](#), section 1.2.1.

As set forth in [WIPO Overview 3.0](#), section 1.9, a “domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar.” [WIPO Overview 3.0](#), section 1.9.

The disputed domain name consists of the entirety of the Complainant’s OVINTIV mark with the additional letter “i” in between the letter “n” and “t”. The Complainant essentially argues that this is an obvious or intentional misspelling of its mark and thus constitutes typosquatting. Typo-squatted domain names are intended to be confusing so that Internet users, who unwittingly make common type errors, will enter the typo-squatted domain name instead of the correctly spelled trademark. See *Muitas Ltd v. Domain Administrator, Sugarcane Internet Nigeria Limited and Milen Radumilo*, WIPO Case No. [D2022-4978](#).

The Respondent does not address the argument. Under the circumstances, the Panel finds that the misspelling was obvious and/or intentional on the part of the Respondent and does not prevent a finding of confusing similarity.

Additionally, as set forth in section 1.11.1 of the [WIPO Overview 3.0](#), the applicable generic Top-Level Domain (“gTLD”) (e.g., “.com”, “.site”, “.info”, “.shop”) is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test. As such, the use of “.com” gTLD in the disputed domain name has no bearing on the confusing similarity analysis.

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. Such circumstances include:

- (i) before any notice of the dispute, the respondent used, or prepared to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a bona fide offering of goods or services;
- (ii) the respondent (as an individual, business, or other organization) is commonly known by the disputed domain name, even if the respondent has acquired no trademark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

Although 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 difficult task of “proving a negative,” requiring the production of 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 (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied with the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available 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. There is evidence of record from which the Panel could conclude that the Respondent does not have rights or legitimate interests in the disputed domain name. Moreover, the Respondent has not come forward with relevant evidence to rebut the Complainant’s prima facie showing. There is simply no evidence in the record demonstrating that the Respondent possesses rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1. 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. [WIPO Overview 3.0](#), section 3.3.

In this case, the disputed domain name incorporates the Complainant’s registered OVINTIV mark in its entirety, with only a minor variation—the insertion of the letter “i” between the letters “n” and “t.” The disputed domain name resolves to an inactive webpage. The Panel, like previous panels, finds that the Respondent’s passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

While the Complainant has put forth minimal facts regarding the Respondent's registration and use in bad faith, considering the foregoing and other circumstances, including the Respondent's lack of response, the Panel finds that the Respondent more likely than not knew of the Complainant's OVINTIV mark at the time of registering the disputed domain name. To be sure, the non-use of the disputed domain name is arguably some evidence that it is not being used in bad faith. But it is not determinative under the doctrine of passive holding and in the absence of any argument and evidence submitted by the Respondent, the Panel finds that the disputed domain name was registered and is being used in bad faith under the Policy.

The Panel therefore finds that the Complainant has established the third 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 <ovinitiv.com> be transferred to the Complainant.

*/Steven Auvil/*

**Steven Auvil**

Sole Panelist

Date: May 14, 2025