

ADMINISTRATIVE PANEL DECISION

The Chemours Company v. chemours jhvjhvl, ljhvlhvh
Case No. D2023-0041

1. The Parties

The Complainant is The Chemours Company, United States of America (“United States”), represented by Bates & Bates LLC, United States.

The Respondent is chemours jhvjhvl, ljhvlhvh, Colombia.

2. The Domain Name and Registrar

The disputed domain name <chemoursrefrigerantes.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 5, 2023. On January 5, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 6, 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 Complainant on January 9, 2023, 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 the same day.

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 January 13, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 2, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 7, 2023.

The Center appointed Rodrigo Azevedo as the sole panelist in this matter on February 22, 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 Complainant is a global chemical company founded in 2015, as a spin-off of E. I. du Pont de Nemours and Company, and since then operating under the CHEMOURS brand.

The Complainant is the owner of numerous trademark registrations incorporating the term “chemours” across various jurisdictions, including the International Trademark Registration no. 1291774, registered on November 14, 2014, and designation in – among many other countries – Colombia.

The Complainant is also the owner of several domain names incorporating the CHEMOURS trademark, such as the domain name <chemours.com>, registered on March 17, 2014.

The Respondent registered the disputed domain name <chemoursrefrigerantes.com> on September 8, 2022.

The Panel accessed the disputed domain name on March 5, 2023, at which time the disputed domain name was pointing to a commercial website in Spanish entitled “Chemours”, reproducing the Complainant’s CHEMOURS trademark and logo, as well as presenting pictures of some of the Complainant’s products and links to the Complainant’s official websites at the domain names <opteon.com>, and <freon.com>.

At the time the Complaint was filed, the use of the disputed domain name was the same as described above.

5. Parties’ Contentions

A. Complainant

The Complainant makes the following contentions:

- (i) The disputed domain name is identical or confusingly similar to the Complainant’s trademark. The relevant comparison to be made is with the second-level portion of the disputed domain name only, as it is well-established that the generic Top-Level Domain (“gTLD”) (*i.e.*, “.com”) may generally be disregarded for this purpose. The disputed domain name incorporates the Complainant’s CHEMOURS trademark in its entirety. The inclusion of the suffix “refrigerantes” does nothing to alleviate any confusing similarity.
- (ii) The Respondent has no legitimate interests in the disputed domain name. Under the Policy, a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests. 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. Previous UDRP panels have found that the respondent has no legitimate interest when falsely suggests affiliation with the trademark owner. The Respondent registered the disputed domain name over eight years after the Complainant registered its official <chemours.com> domain name. The Respondent has no legitimate interest in the disputed domain name because it fully incorporates the Complainant’s CHEMOURS trademark, a made-up word brand. The Complainant has not authorized, licensed, or otherwise permitted the Respondent to use its CHEMOURS trademark, and the Complainant does not have any type of business relationship or affiliation with the Respondent.

- (iii) The Respondent registered and is using the disputed domain name in bad faith. The Respondent's registration of the disputed domain name in bad faith is evidenced by the fact that (i) it incorporates the Complainant's well-known CHEMOURS trademark in its entirety, without authorization; (ii) it has hidden its true identity; and (iii) it is attempting to trade off the goodwill the Complainant has established in the CHEMOURS trademark. Previous UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or 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. The Respondent has attempted to suggest sponsorship or affiliation with the Complainant not only by making unauthorized use of the Complainant's CHEMOURS trademarks in the disputed domain name and its respective website, but also by linking the disputed domain name to the Complainant's legitimate websites at the domain names <opteon.com> and <freon.com>, as well as social media pages.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that in order to be entitled to a transfer of the disputed domain name, the Complainant shall prove the following three elements:

- (i) The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (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 Panel has no doubt that "chemours" is a term directly connected with the Complainant's trademark.

Annex 3 to the Complaint shows registrations for CHEMOURS trademark owned by the Complainant in different regions of the world, which - as verified by this Panel's research in online databases - were mostly registered many years prior to the registration of the disputed domain name.

The trademark CHEMOURS is wholly encompassed within the disputed domain name.

The disputed domain name differs from the Complainant's trademark basically by the addition of the suffix "refrigerantes" (a Spanish or Portuguese word that can be used to describe a category of the Complainant products intended for commercial refrigeration, known as "refrigerants" in English), as well as of the gTLD ".com".

Previous UDRP decisions have found that descriptive additions (such as "refrigerantes", in the present case) do not distinguish a domain name, so as to avoid confusing similarity. This has been held in many UDRP cases (see, e.g., *Inter-IKEA Systems B.V. v. Evezon Co. Ltd.*, WIPO Case No. [D2000-0437](#); *The British Broadcasting Corporation v. Jaime Renteria*, WIPO Case No. [D2000-0050](#); *Volvo Trademark Holding AB v. SC-RAD Inc.*, WIPO Case No. [D2003-0601](#); *Wal-Mart Stores, Inc. v. Lars Stork*, WIPO Case No. [D2000-0628](#); *America Online, Inc. v. Dolphin@Heart*, WIPO Case No. [D2000-0713](#); and *AltaVista Company v. S. M. A., Inc.*, WIPO Case No. [D2000-0927](#)).

It is also already well established that the addition of a gTLD extension such as ".com" is irrelevant when determining whether a domain name is confusingly similar to a complainant's trademark.

As a result, the Panel finds the disputed domain name to be confusingly similar to the Complainant's trademark.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides some examples without limitation of how a respondent can demonstrate a right or legitimate interest in a domain name:

- (i) Before receiving any notice of the dispute, the respondent used or made demonstrable preparations to use the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) The respondent has been commonly known by the domain name; 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 at issue.

Based on the Respondent's default and on the *prima facie* evidence established by the Complainant in the Complaint, the Panel finds that the above circumstances are not present in this particular case and that the Respondent has no rights or legitimate interests in the disputed domain name.

The Complainant has not licensed nor authorized the use of its trademark to the Respondent, and the Panel finds no indication that the Respondent is commonly known by the disputed domain name.

The Respondent has not indicated any reason to justify why he has chosen such trademark to compose the disputed domain name, together with a merely descriptive addition, and pointing to a website entitled "Chemours", that reproduces the Complainant's brand and official website.

Therefore, the use of the Complainant's trademark in the context of the disputed domain name cannot qualify as a *bona fide* offering of services.

Consequently, the Panel is satisfied that the Complainant has proven the second element of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy states that the following circumstances in particular, but without limitation, shall be evidence of registration and use of a domain name in bad faith:

- (i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of documented out-of-pocket costs directly related to the domain name; or
- (ii) The respondent registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) The respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product or service on its website or location.

When the disputed domain name was registered by the Respondent in 2022, the term “chemours” was already directly connected to the Complainant’s products, including chemical refrigerants.

The disputed domain name encompasses the previously registered trademark CHEMOURS.

According to the [WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition](#), section 3.1.4, UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to widely known trademark by an unaffiliated entity can by itself create a presumption of bad faith.

Actually, the Panel considers that in the present case the addition to the Complainant’s trademark of descriptive term “refrigerantes” may even enhance the risk of confusion, suggesting that the disputed domain name refers to official channel for selling CHEMOURS chemical refrigerants online.

This circumstance is emphasized by the fact that the website connected to the disputed domain name is entitled “Chemours”, presents reproductions of the Complainant’s trademark and logo, and contains links to some of the Complainant’s official products’ webpages. Thus, the Panel finds that there is a clear attempt by the Respondent to impersonate the Complainant through the disputed domain name.

Accordingly, the Panel finds that the disputed domain name was registered and are being used in bad faith, and the Complainant has also satisfied 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 <chemoursrefrigerantes.com> be transferred to the Complainant.

/Rodrigo Azevedo/

Rodrigo Azevedo

Sole Panelist

Date: March 9, 2023