

## **ADMINISTRATIVE PANEL DECISION**

Equinor ASA v. Maihi Ben

Case No. D2022-4943

### **1. The Parties**

The Complainant is Equinor ASA, Norway, represented by Valea AB, Sweden.

The Respondent is Maihi Ben, United States of America.

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

The disputed domain name <equinorpec.com> is registered with Key-Systems GmbH (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 22, 2022. On December 23, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 27, 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 (On behalf of equinorpec.com OWNER, c/o whoisproxy.com) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 27, 2022, 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 December 28, 2022.

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 December 29, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 18, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 19, 2023.

The Center appointed Ganna Prokhorova as the sole panelist in this matter on January 24, 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.

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 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.

#### **4. Factual Background**

The Complainant is Equinor ASA (formerly known as Statoil ASA), a Norwegian company operating in more than 30 countries around the world in the field of energy. The Complainant announced the change of its name and adoption of the mark EQUINOR in March 2018, and owns several trademark registrations for EQUINOR, among which the following ones:

- International Trademark Registration No. 1444675 for EQUINOR, registered on July 4, 2018;
- European Union Trademark Registration No. 017900772 for EQUINOR, registered on January 18, 2019.

The Complainant operates on the Internet at several websites, the main one being “www.equinor.com”.

The disputed domain name was registered on December 1, 2022. Currently it does not resolve to an active web-page but at the time of filing the Complaint it resolved to a website offering crypto currency services.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The Complainant requests the transfer in its benefit of the disputed domain name. Its main arguments can be summarized as follows:

- (1) The disputed domain name is confusingly similar Complainant’s trademark EQUINOR as the disputed domain name incorporates the entirety of the trademark. The additional letters “pec” does not prevent confusing similarity. The suffix “.com” indicates that the disputed domain name is registered in the “.com” generic Top-Level Domain (“gTLD”). Bearing in mind the widespread reputation and high degree of recognition of the Complainant’s EQUINOR marks especially in the energy sector, as well as the lack of distinguishing factors between the disputed domain name and the Complainant’s marks, the disputed domain name should be considered as confusingly similar, not to say identical, to the EQUINOR mark in which the Complainant has rights.
- (2) The Respondent has no rights or legitimate interests in respect of the disputed domain name based on the Complainant’s prior use of its trademark EQUINOR and company name Equinor. The Respondent is not affiliated or related to the Complainant in any way, or licensed or otherwise authorized to use the EQUINOR mark in connection with a website, a domain name or for any other purpose. The Respondent is not using the domain name in connection with any legitimate noncommercial or fair use without intent for commercial gain, is not generally known by the disputed domain name and has not acquired any trademark or service mark rights in that name or mark. The Respondent is neither using the disputed domain name in connection with a *bona fide* offering of goods or services.

- (3) It is apparent from the composition of the disputed domain name, in as far as it contains the EQUINOR trademark, that the Respondent is fully aware that the disputed domain name incorporates a well-recognized and distinctive trademark in which it has absolutely no prior rights. The registration of the disputed domain name took place more than four years after it announced its name change to “Equinor”, the Respondent could not have chosen or subsequently used the word “Equinor” for any reasons other than to take unfair advantage of the reputation of the Complainant’s famous trademark.

## **B. Respondent**

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

## **6. Discussion and Findings**

According to paragraphs 14(a) and 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, the Rules, and any rules and principles of law that it deems applicable, and on the basis of the Complaint where no Response has been submitted.

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.

The Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complaint.

Moreover, the Panel has taken note of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) and, where appropriate, will decide consistent with the consensus views captured therein.

### **A. Identical or Confusingly Similar**

According to paragraph 4(a)(i) of the Policy it should be established that the disputed domain name is identical or confusingly similar to a mark in which the complainant has rights.

To prove this element, the Complainant must first establish that there is a trademark or service mark in which it has rights. The Complainant has clearly established that there are trademarks in which it has rights. The Complainant’s EQUINOR trademarks have been registered in various countries.

The Panel observes that the disputed domain name incorporates the Complainant’s EQUINOR trademark in its entirety, simply adding the additional letters “pec”. It is the consensus view of UDRP panels that, where a domain name incorporates the entirety of a trademark, the domain name will normally be considered confusingly similar to that mark. Moreover, where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. See [WIPO Overview 3.0](#), sections 1.7 and 1.8.

The addition of the gTLD “.com” shall be disregarded for the purposes of assessing confusing similarity, as it is a standard requirement of registration. See [WIPO Overview 3.0](#), section 1.11.1.

In light of the above, the Panel considers the disputed domain name to be confusingly similar to the Complainant's EQUINOR trademark.

Consequently, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

### **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.

As established by previous UDRP panels, it is sufficient for the Complainant to make a *prima facie* showing that the Respondent has no rights or legitimate interests in the disputed domain name in order to place the burden of production on the Respondent (see [WIPO Overview 3.0](#), section 2.1).

In the present case, the Complainant has established a *prima facie* case that it holds rights over the trademark EQUINOR and claims that the Respondent has no legitimate reason to acquire and use the disputed domain name.

The Panel observes that the Respondent does not appear to be commonly known by the disputed domain name and that the Respondent does not seem to have acquired trademark or service mark rights (there being no Response or evidence of any such rights). The Respondent is not affiliated or related to the Complainant in any way, or licensed or otherwise authorized to use the EQUINOR mark in connection with a website, a domain name or for any other purpose. There are no indications that a connection between the Complainant and the Respondent exists.

The Respondent's disputed domain name is neither used in connection with a *bona fide* offering of goods or/and services nor constitutes a legitimate noncommercial fair use. In accordance with the evidence submitted, the disputed domain name was related to a website offering crypto currency services describing themselves as a "financial and digital asset trading and investment platform". When visiting the site several pop-up notifications appeared stating "Ava from Surinam has just invested \$36,900". The site has been taken down and currently displays a Hostinger landing page. These facts show the Panel that the use of the disputed domain name does not constitute a *bona fide* offering of goods and services, nor a legitimate noncommercial or fair use, and has not been authorized by the Complainant.

The Complainant also notes (in connection with its argument under the third element of the Policy) that MX-records are set up for the disputed domain name, and that there is accordingly a risk that the disputed domain name was registered and being used to create fraudulent email messages.

The above statements establish the Complainant's *prima facie* showing. The Respondent had the opportunity to demonstrate rights or legitimate interests but did not do so. In the absence of a Response from the Respondent, the *prima facie* case established by the Complainant has not been rebutted.

Therefore, with the evidence on file, it is undoubtedly established that the Respondent has no rights or legitimate interests in respect to the disputed domain name under paragraph 4(a)(ii) of the Policy.

### **C. Registered and Used in Bad Faith**

To fulfill the third requirement of the Policy, the Complainant must prove that the disputed domain name was registered and is being used in bad faith.

The Complainant must prove on the balance of probabilities both that the disputed domain name was registered in bad faith and that these are used in bad faith (see [WIPO Overview 3.0](#), section 4.2).

Paragraph 4(b) of the Policy provides a non-exhaustive list of factors, any one of which may demonstrate bad faith. Among these factors demonstrating bad faith registration and use is the use of a domain name to

intentionally attempt to attract, for commercial gain, Internet users to a 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 the website or location or of a product or service on the website or location.

First, the Panel considers that it is established that the EQUINOR trademarks were registered by the Complainant before the registration of the disputed domain name and that the Complainant also owns several domain names containing "equinor" which also constitutes the Complainant's company name. Therefore, there is a presumption of bad faith registration of the disputed domain name, given the fact that the disputed domain name reproduces the EQUINOR trademark in its entirety (see [WIPO Overview 3.0](#), section 3.1.4), which is well-recognized.

Second, as it was established by the Panel above, the use of the disputed domain name should not be considered as a legitimate or fair use. Moreover, mail servers were set up on it which increases the risk of fraudulent use such as phishing.

In addition, the use of a privacy or proxy service which is known to block or intentionally delay disclosure of the identity of the actual registrant is often considered as an indication of bad faith (see [WIPO Overview 3.0](#), section 3.6).

Furthermore, as of the date of the decision, it is no longer possible to access the Respondent's website. Thus, the Panel finds that the disputed domain name is inactive and, considering the above circumstances and the current passive holding, it can only be concluded that the disputed domain name has been registered and is being used in bad faith ([WIPO Overview 3.0](#), see section 3.3).

Finally, by failing to respond to the Complaint, the Respondent did not take any initiative to contest the foregoing. Pursuant to paragraph 14 of the Rules, the Panel may draw the conclusions it considers appropriate.

Therefore, the Panel finds that, on the balance of probabilities, it is sufficiently shown that the disputed domain name was registered and is being used in bad faith. In light of the above, the Complainant also succeeds on the third and last element of the Policy.

For the reasons set out above, the Panel concludes that the disputed domain name was registered and is being used in bad faith, within the meaning of 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 <equinorpec.com> be transferred to the Complainant.

*/Ganna Prokhorova/*

**Ganna Prokhorova**

Sole Panelist

Date: February 7, 2023