

ADMINISTRATIVE PANEL DECISION

Equinor ASA v. Jack Brian
Case No. D2023-0152

1. The Parties

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

The Respondent is Jack Brian, Iraq.

2. The Domain Name and Registrar

The disputed domain name <equinor.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 January 12, 2023. On January 12, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 12, 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 (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 24, 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 date.

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 30, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 19, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 6, 2023.

The Center appointed Ada L. Redondo Aguilera as the sole panelist in this matter on April 11, 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 Norwegian corporation, formerly known as Statoil ASA.

The Complainant is a broad international energy company with operations in more than 30 countries around the world developing oil, gas, wind, and solar energy. The Complainant has grown up along with the emergence of the Norwegian oil and gas industry dating back to the late 1960s.

The Complainant was founded in 1972 and the Norwegian State holds 67% of the shares.

In the year 2018, Statoil ASA decided to change its name to Equinor ASA. The name change was announced on March 15, 2018, and the news was shared and commented worldwide on different media platforms.

The Complainant's EQUINOR trademark applications have been filed worldwide. The Complainant includes in the Complaint a list of trademark applications/registrations worldwide for the trademark EQUINOR and copies of the registration certificates.

The Complainant is the owner of several trademark registrations for EQUINOR in various jurisdictions, including:

- International trademark registration No. 1444675, registered on July 4, 2018, for goods and services in international classes 1, 2, 4, 6, 7, 9, 16, 17, 19, 25, 28, 35, 36, 37, 39, 40, 41 and 42; and
- European Union Trade Mark registration No. 17900772, registered on January 18, 2019, for goods and services in international classes 1, 2, 4, 6, 7, 9, 16, 17, 19, 25, 28, 35, 36, 37, 39, 40, 41 and 42;
- United States trademark application No. 87959294, registered on August 3, 2021, for goods and services in international classes 1, 2, 4, 6, 7, 9, 16, 17, 19, 25, 28, 35, 36, 37, 39, 40, 41 and 42.

Furthermore, the Complainant stated that it is the owner of more than 100 domain name registrations throughout the world containing the EQUINOR mark distributed among generic Top-Level Domains ("gTLDs") and country code Top-Level Domains ("ccTLDs") in which the Complainant operates several websites, the main one being "www.equinor.com" ("the Complainant's official website").

The disputed domain name was registered on January 9, 2023. The disputed domain name resolved to an inactive website where apparently a folder can be downloaded. There is no other content but the folder.

The Panel accessed the disputed domain name on April 21, 2023, at which time the disputed domain name resolved to a website containing similar content of the Complainant's official website reproducing the EQUINOR trademark.¹

5. Parties' Contentions

A. Complainant

The Complainant argues that the disputed domain name is confusingly similar to its EQUINOR trademark. Also, the Complainant argues that the Respondent has no rights or legitimate interests with respect to the disputed domain name and finally, that the Respondent registered and is using the disputed domain name in bad faith. The Complainant requests the transfer of the disputed domain name.

¹ Noting in particular the general powers of the panel articulated *inter alia* in paragraphs 10 and 12 of the UDRP Rules, it has been accepted that a panel may undertake limited factual research into matters of public record if it would consider such information useful to assessing the case merits and reaching a decision.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Panel finds that the Complainant has established that it has registered trademark rights in the EQUINOR mark. As noted in WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.2.1: "Where the Complainant holds a nationally or regionally registered trademark or service mark, this *prima facie* satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case."

In order to establish the confusing similarity test, panels typically do a side-by-side comparison between the trademark and the domain name to establish if the complainant's trademark is recognizable within the domain name.

In this case, the disputed domain name incorporates the trademark EQUINOR in its entirety with the addition of the letter "u". As stated in [WIPO Overview 3.0](#), section 1.7: "[...] 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 normally be considered confusingly similar to that mark for purposes of UDRP standing."

Also, in cases where the domain name consists of a common, obvious, or intentional misspelling of a trademark the domain name is considered to be confusingly similar to the relevant mark for purposes of the first element (see [WIPO Overview 3.0](#), section 1.9). Due to the fact that the disputed domain name consists of an obvious misspelling of the Complainant's EQUINOR trademark, *i.e.*, the addition of the letter "u", the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark.

The TLD ".com" is not sufficient to prevent the confusing similarity. As stated by section 1.11.1 of the [WIPO Overview 3.0](#), "[t]he applicable Top Level Domain ("TLD") in a domain name (*e.g.*, ".com", ".club", ".nyc") is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test."

For the foregoing reasons, the Panel finds that the disputed domain name is confusingly similar to trademarks in which the Complainant has rights and that the requirements of paragraph 4(a)(i) of the Policy therefore are fulfilled.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, a respondent may establish rights to or legitimate interests in a disputed domain name by demonstrating any of the following:

- (i) before any notice to you of the dispute, the respondent's use of, or demonstrable preparations to use, the domain name or a name corresponding to 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, even if it 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 Policy addresses ways in which a respondent may demonstrate rights or legitimate interests in a disputed domain name, it is well established that, as it is put in section 2.1 of the [WIPO Overview 3.0](#), a complainant is required to make out a *prima facie* case that the Respondent lacks rights or legitimate interests. Once such *prima facie* case is made, the burden of production shifts to the respondent to come forward with relevant allegations or evidence demonstrating rights or legitimate interests in the domain name. If the respondent does come forward with evidence of relevant rights or legitimate interests, the panel weighs all the evidence, with the burden of proof always remaining on the complainant.

The Complainant contends that the Respondent is not referred to or commonly known by the disputed domain name or any related trademark. The Complainant also claims that it has not authorized the Respondent to use the trademark in any way including use in a domain name and also that the Respondent has no rights to 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 Complainant argues that 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 disputed 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 Complainant further submits that the Respondent is neither using the disputed domain name in connection with a *bona fide* offering of goods or services. It can therefore be concluded that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

In conclusion according to this Panel, in the present case, the Respondent is not using the disputed domain name in connection with a *bona fide* offering of goods or services nor making any legitimate noncommercial or fair use of the disputed domain name.

The Panel finds that the Complainant has made out a *prima facie* case. The Respondent has not responded, and the Panel is unable to conceive any basis upon which the Respondent could have any rights or legitimate interests in respect of the disputed domain name.

Here the Panel finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. By not submitting a response, the Respondent has failed to invoke any circumstance, which could have demonstrated any rights or legitimate interests in the disputed domain name under paragraph 4(c) of the Policy. There is no indication before the Panel of any activity in relation to the disputed domain name that would give rise to rights or legitimate interests in the Respondent.

For the foregoing reasons the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name and the requirements of paragraph 4(a)(ii) of the Policy therefore are fulfilled.

C. Registered and Used in Bad Faith

In order to prevail under the Policy, the Complainant must show that the disputed domain name has been registered and is being used in bad faith.

The Complainant's EQUINOR trademark is well known. The Complainant's trademarks have been continuously and extensively used for many years and have as a result acquired considerable reputation and goodwill worldwide. Accordingly, the Panel is satisfied that the Respondent must have been aware of the trademarks EQUINOR when it registered the disputed domain name, noting also that the disputed domain name is a misspelling of the Complainant's trademark and the fact that the references on the website at the disputed domain name to "energy security crisis" are related to the Complainant's activities in the energy sector.

The Respondent has intentionally registered and is using the disputed domain name in bad faith. It is apparent from the composition of the disputed domain name that the Respondent chose to register the disputed domain name that is confusingly similar to the Complainant's trademark EQUINOR. The Panel finds that the Respondent more likely than not was fully aware of the fact that it incorporated a well-recognized and distinctive trademark in which the Respondent had absolutely no prior rights. The registration of the disputed domain name took place on January 9, 2023. Hence, almost 5 years after Equinor announced its name change in March 2018.

The disputed domain name incorporates the Complainant's trademark EQUINOR and was registered almost five years after the Complainant started using its mark. Given the distinctiveness and well-established reputation of the Complainant's trademark, in all likelihood the Respondent could not ignore the Complainant's EQUINOR trademark at the time it registered the disputed domain name. Such fact suggests that the disputed domain name was registered in bad faith (see [WIPO Overview 3.0](#), section 3.2.2) with a deliberate intent to create an impression of an association with the Complainant. Concerning the use of the disputed domain name, the evidence submitted shows that at the time of filing the Complaint, the disputed domain name did not resolve to an active website but it appears a folder could be downloaded. It is possible that if an Internet user was to click and download the content of the folder that user's device could have been infected with malware and/or the Respondent could have had access to that user's personal data. In any event, if at the time of the filing of the Complaint the disputed domain name was not being used at all, from the inception of the UDRP panelists 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. However, it seems that the Respondent has proceeded with additional steps beside registering the disputed domain name and using the disputed domain name as mentioned above. At the time the Panel accessed the website at the disputed domain name, the disputed domain name resolved to a website featuring a similar website to that of the Complainant, which is confusing in that Internet users might reasonably believe that services/products advertised are connected to or approved by the Complainant. Accordingly, the Panel finds that the Respondent has intentionally attempted to attract for commercial gain Internet users by creating a likelihood of confusion with the Complainant's EQUINOR mark. In addition, it appears that the Respondent has taken steps to conceal its identity by registering the disputed domain name through a privacy service. All the above circumstances confirm the use in bad faith of the disputed domain name under the Policy.

Therefore, the Panel finds that the disputed domain name was registered and is being used in bad faith under paragraph 4(b)(iv) 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, <equinor.com> be transferred to the Complainant.

/Ada L. Redondo Aguilera/
Ada L. Redondo Aguilera
Sole Panelist
Date: April 25, 2023