

ADMINISTRATIVE PANEL DECISION

Equinor ASA v. Frank Crown
Case No. D2023-1311

1. The Parties

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

Respondent is Frank Crown, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <invest-equinorltd.com> is registered with Atak Domain Hosting Internet ve Bilgi Teknolojileri Limited Sirketi d/b/a Atak Teknoloji (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on March 27, 2023. On March 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 4, 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 (Domain Administrator, Registrant of invest-equinorltd.com) and contact information in the Complaint. The Center sent an email communication to Complainant on April 4, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on April 4, 2023.

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 Respondent of the Complaint, and the proceedings commenced on April 11, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 1, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on May 2, 2023.

The Center appointed Phillip V. Marano as the sole panelist in this matter on May 15, 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

Complainant is a Norwegian energy company founded in 1972 with current operations developing oil, gas, wind, and solar energy in more than 30 countries around the world. Complainant offers information about its services through its official <equinor.com> domain name and website. Complainant owns valid and subsisting registrations for the EQUINOR trademark in numerous countries, including the trademark for EQUINOR (European Union Trademark Reg. No. 017900772), registered on January 18, 2019.

Respondent registered the disputed domain name on March 25, 2023. At the time this Complaint was filed, the disputed domain name was configured with MX records but resolved to an “Account Suspended” webpage informing visitors that, “This account has been suspended. Contact your hosting provider for more information.”

5. Parties’ Contentions

A. Complainant

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

Notably, Complainant asserts ownership of the EQUINOR trademark and has adduced evidence of trademark registrations in numerous regions and countries around the world including the European Union, with earliest priority dating back to registration on January 18, 2019. The disputed domain name is confusingly similar to Complainant’s EQUINOR trademark, according to Complainant, because it incorporates the entirety of Complainant’s EQUINOR trademark but also (i) the English word “invest”, which Complainant uses on its official website to provide information on investing in Complainant, and (ii) the company abbreviation “Ltd” meaning “limited”, which Complainant uses for Complainant subsidiaries, such as Equinor UK Ltd. The disputed domain name is also confusingly similar to Complainant’s EQUINOR trademark, according to Complainant, due to the widespread reputation and high degree of recognition of Complainant’s EQUINOR trademark, especially in the energy sector.

Complainant further asserts that Respondent lacks any rights or legitimate interests in the disputed domain name based on: the lack of any authorization, license or affiliation between Complainant and Respondent; the lack of any evidence that Respondent is known by the disputed domain name; the lack of any trademark or service mark ownership by Respondent corresponding to the disputed domain name; and the lack of any *bona fide* offering of goods or services by Respondent in connection with the disputed domain name.

Complainant argues that Respondent has registered and used the disputed domain name in bad faith for numerous reasons, including: Respondent’s awareness of Complainant’s well-recognized and distinctive EQUINOR trademark, which Complainant announced and registered five years before Respondent registered the disputed domain name; the well-known and distinctive nature of Complainant’s EQUINOR trademark, as recognized by previous UDRP panels; Respondent’s use of MX records, which create the imminent risk of consumer confusion and potential for phishing emails; and Respondent’s intentional attempt to attract Internet traffic for commercial gain by creating a likelihood of confusion with Complainant’s EQUINOR trademark.

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

To succeed in its Complaint, Complainant must establish in accordance with paragraph 4(a) of the Policy:

- i. The disputed domain name is identical or confusingly similar to a trademark in which Complainant has rights;
- ii. 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.

Although Respondent did not reply to Complainant's contentions, the burden remains with Complainant to establish by a balance of probabilities, or a preponderance of the evidence, all three elements of paragraph 4(a) of the Policy. A respondent's default would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true. UDRP panels have been prepared to draw certain inferences in light of the particular facts and circumstances of the case, *e.g.* where a particular conclusion is *prima facie* obvious, where an explanation by the respondent is called for but is not forthcoming, or where no other plausible conclusion is apparent. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), sections 4.2 and 4.3; see also *The Vanguard Group, Inc. v. Lorna Kang*, WIPO Case No. [D2002-1064](#) ("The Respondent's default does not automatically result in a decision in favor of the complainant. The Complainant must still prove each of the three elements required by Policy paragraph 4(a)").

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 Complainant's trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds 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 EQUINOR mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical or confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms here, "invest" and "ltd", 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; *Ashfords LLP v. Hioo Uoehojf*, WIPO Case No. [D2020-1579](#) (finding that the addition of a corporate identifier does not prevent a disputed domain name from being confusingly similar to complainant's trademark).

In view of the foregoing, the Panel concludes that Complainant has established the first element of the Policy.

B. Rights or Legitimate Interests

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

While the overall burden of proof in UDRP proceedings is on 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 respondent. As such, where a complainant makes out a *prima facie* case that respondent lacks rights or

legitimate interests, the burden of production on this element shifts to respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If respondent fails to come forward with such relevant evidence, as in this Complaint, complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

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

The Panel considers the absence of any evidence proffered by Respondent, which thereby reflects that:

Before any notice to Respondent of the dispute, Respondent did not use, nor has it made demonstrable preparations 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. Paragraph 4(c)(i) of the Policy, and [WIPO Overview 3.0](#), section 2.2.

Respondent (as an individual, business, or other organization) has not been commonly known by the disputed domain name. Paragraph 4(c)(ii) of the Policy, and [WIPO Overview 3.0](#), section 2.3.. It is evident that Respondent, disclosed by the Registrar as "Frank Crown", is not commonly known by the disputed domain name or Complainant's EQUINOR trademark.

Respondent is not making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue. Paragraph 4(c)(iii) of the Policy, and [WIPO Overview 3.0](#), section 2.4. This is especially the case where a disputed domain name is so obviously connected with a complainant and its products, the very use, by a registrant with no connection to a complainant suggests opportunistic bad faith. The Panel concludes from the record that Respondent had Complainant's EQUINOR trademark in mind when registering the disputed domain name, and that Respondent most likely registered the disputed domain name in order to exploit and profit from Complainant's trademark rights.

Indeed, the record contains no other factors demonstrating rights or legitimate interests of Respondent in the disputed domain name.

Moreover, prior UDRP panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. As discussed in more detail below, Complainant has made the plausible argument that Respondent's proactive configuration of the disputed domain name with MX records creates a risk that Respondent is engaged, or will engage, in an email phishing scheme.

In view of the foregoing, the Panel concludes that Complainant has established the second element of the Policy.

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.

The Panel considers that the record of this case reflects that:

Respondent has intentionally attempted to attract, for commercial gain, Internet users to its web site or other on-line location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship,

affiliation, or endorsement of Respondent's web site or location or of a product or service on Respondent's web site or location. Paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4.

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.

The mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating a descriptive term) to a famous or widely known trademark by an unaffiliated entity can by itself create a presumption of bad faith (particularly where no conceivable good faith use could be made). [WIPO Overview 3.0](#), section 3.1.4. Complainant has adduced evidence of recognition of the EQUINOR trademark and cited at least one prior UDRP panel in agreement that Complainant's EQUINOR trademark is considered to be "well-known" and "distinctive." See *e.g. Equinor ASA v. Danielle Torres*, WIPO Case No. [D2022-4889](#) ("The Panel finds that the disputed domain name is confusingly similar to the Complainant's EQUINOR mark, a distinctive and well-known mark in which the Complainant has established rights through registration and considerable use"). As such, the Panel finds it is unconceivable that Respondent could have registered the disputed domain name without knowledge of Complainant's EQUINOR trademark, without any intention to benefit from confusion with Complainant's EQUINOR trademark.

Moreover, panels have held that the use of a domain name for illegal activity (*e.g.*, the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy. In particular, the Panel considers configuration of an email server on the disputed domain name as additional evidence that the disputed domain name has been registered and used in bad faith. The disputed domain name contains in its entirety Complainant's EQUINOR trademark, and the record is devoid of any evidence to suggest that Respondent has any legitimate interests in sending emails from the disputed domain name. Complainant has made a plausible argument that Respondent's proactive configuration of an email server, creates a risk that Respondent is engaged in a phishing scheme, thereby using an email address associated with Complainant to try to steal valuable sensitive, financial or other confidential information from Complainant or its clients or employees. Prior UDRP panels have recognized the same risk, and considered it as additional evidence of bad faith. See *e.g. Accor SA v. Domain Admin, C/O ID#10760, Privacy Protection Service INC d/b/a PrivacyProtect.org / Yogesh Bhardwaj*, WIPO Case No. [D2017-1225](#); *Carrefour S.A. v. WhoisGuard, Inc / Gaudet Jose*, WIPO Case No. [DCO2018-0041](#) ("The Panel concurs with the Complainant that the connection of the disputed domain name with an email server configuration enhances a likelihood of confusion and presents a risk that the Respondent is engaged in a phishing scheme.")

Finally, Respondent's website appears to have been deactivated by Respondent's web host absent any attempt by Respondent to explain or justify its use of the disputed domain name. The Panel takes this as corroborating evidence of Respondent's bad faith. See *e.g. LEGO Juris A/S v. Ammar Briouel / Brahim Mahjoubi*, WIPO Case No. [D2019-0750](#) (involving website suspension following a takedown request by Complainant).

In view of the foregoing, the Panel concludes that 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 <invest-equinorltd.com> be transferred to Complainant.

/Phillip V. Marano/

Phillip V. Marano

Sole Panelist

Date: May 30, 2023