

ADMINISTRATIVE PANEL DECISION

Equinor ASA v. Domains By Proxy, LLC / Vo Quang
Case No. D2022-0852

1. The Parties

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

The Respondent is Domains By Proxy, LLC, United States of America / Vo Quang, Viet Nam.

2. The Domain Name and Registrar

The disputed domain name <equinor.website> 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 March 11, 2022. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 14, 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 and contact information in the Complaint.

The Center sent an email communication to the Complainant on March 16, 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 March 17, 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 March 17, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 6, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 7, 2022.

The Center appointed Christiane Féral-Schuhl as the sole panelist in this matter on April 11, 2022. 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, Equinor ASA, is a Norwegian corporation, formerly known as Statoil ASA. It is an energy company, with operations in more than 30 countries, developing oil, gas, wind and solar energy.

The Complainant is the owner of numerous trademarks worldwide (the "EQUINOR Trademark"), including:

- the European Union trademark EQUINOR, No 017900772, registered on January 18, 2019, for products and services in classes 1, 2, 4, 6, 7, 9, 16, 17, 19, 25, 28, 35, 36, 37, 39, 40, 41 and 42,
- the International trademark EQUINOR, No 1444675, registered on July 4, 2018, for products and services in classes 1, 2, 4, 6, 7, 9, 16, 17, 19, 25, 28, 35, 36, 37, 39, 40, 41 and 42,
- the United States of America trademark EQUINOR, No 6436681, registered on August 3, 2021, for products and services in classes 1, 2, 4, 6, 7, 9, 16, 17, 19, 25, 28, 35, 36, 37, 39, 40, 41 and 42.

The Complainant is also the owner of numerous domain names containing the EQUINOR Trademark, such as <equinor.com> and several country code Top-Level Domains (ccTLDs).

The disputed domain name was registered on January 29, 2022.

The disputed domain name resolved to a website promoting discounted IT consumer gadgets such as cellphones and gaming consoles, also providing articles on gambling, social media and more.

As of the date of this decision, it is no longer possible to access the Respondent's website as the website seems to have been inactivated.

5. Parties' Contentions

A. Complainant

First, the Complainant stands that the disputed domain name is confusingly similar to the EQUINOR Trademark and the Complainant's company name, since it incorporates the EQUINOR Trademark in its entirety and exclusively. The Complainant contends that the generic Top-Level Domain ("gTLD") ".website" is not sufficient to prevent the confusing similarity, as stated by section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Second, the Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, since the Respondent is not affiliated or related to the Complainant in any way, or licensed or otherwise authorized to use the EQUINOR Trademark in connection with a website, a domain name or for any other purpose. The Complainant claims that the Respondent is not using the disputed domain name in connection with any legitimate non-commercial 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.

At last, the Complainant finds that the Respondent has registered and is using the disputed domain name in bad faith, considering that: (i) it is apparent from the composition of the disputed domain name that the Respondent chose to register a name that is confusingly similar to the EQUINOR Trademark and to the Complainant's company name in which the Respondent had no prior rights,

(ii) the Respondent could not have chosen or subsequently used the word “Equinor” in the disputed domain name for any reasons other than to take unfair advantage of the reputation of the Complainant’s and of the EQUINOR Trademark, (iii) the Respondent is using the disputed domain name to attract Internet users by creating a likelihood of confusion with the Complainant’s trademark, (iv) there is a high risk that fraudulent emails will be distributed from this domain once the MX records are active, (v) 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 (“[WIPO Overview 3.0](#)”, Section 3.6).

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; 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.

A. Identical or Confusingly Similar

According to the Policy, paragraph 4(a)(i), the Complainant shall prove that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

First of all, the Panel finds that the Complainant has provided evidence that it has rights in the EQUINOR Trademark.

Then, the Panel wishes to remind that the first element of the UDRP serves essentially 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.

This test typically involves a side-by-side comparison of the disputed domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name. In cases where a domain name consists of a common, obvious, or intentional misspelling of a trademark, the domain name will be considered by panels to be confusingly similar to the relevant mark for purposes of the UDRP (see section 1.9 of the [WIPO Overview 3.0](#)).

Regarding the disputed domain name <equinor.website>, the Panel finds that it is composed of:

- the EQUINOR Trademark, and
- the gTLD “.website”.

The gTLD in a domain name is viewed as a standard registration requirement and as such is disregarded for the purpose of determining whether a domain name is identical or confusingly similar to a trademark.

Therefore, the Panel holds that the disputed domain name is identical to the EQUINOR Trademark and that the Complainant has established the first element of paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

According to the Policy, paragraph 4(a)(ii), the Complainant shall demonstrate that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Policy, paragraph 4(c), outlines circumstances that if found by the Panel to be proved shall demonstrate the Respondent's rights or legitimate interests in the disputed domain name.

According to prior UDRP panel decisions, it is sufficient that the complainant shows *prima facie* that the respondent lacks rights or legitimate interests in the disputed domain name in order to shift the burden of production to the respondent (see *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#)).

Indeed, while the overall burden of proof in UDRP proceedings is on the complainant, UDRP 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 the respondent. As such, where a complainant makes out *prima facie* 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element (see section 2.1 of the [WIPO Overview 3.0](#)).

The Panel considers that the Complainant has shown *prima facie* that the Respondent lacks rights or legitimate interests in the disputed domain name, as it appears that the Respondent is not affiliated or related to the Complainant in any way, or licensed or otherwise authorized to use the EQUINOR Trademark in connection with a website, a domain name or for any other purpose.

In these circumstances, it is the Respondent's duty to evidence its rights or legitimate interests in the disputed domain name.

The Panel finds that there is no evidence that the Respondent is known by the term of the disputed domain name. In any case, the Respondent did not reply to the Complainant's contentions.

Therefore, according to the Policy, paragraph 4(a)(ii) and 4(c), the Panel considers that the Respondent does not have rights to or legitimate interests in the disputed domain name <equinor.website>.

C. Registered and Used in Bad Faith

According to the Policy, paragraph 4(a)(iii), the Complainant shall prove that the disputed domain name has been registered and is being used in bad faith.

Thus, paragraph 4(b) provides that any one of the following non-exclusive scenarios constitutes evidence of a respondent's 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 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 the respondent's documented out-of-pocket costs directly related to the domain name; or

(ii) the respondent has 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 the respondent's website or location or of a product or service on the respondent's 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 wholly and exclusively reproduces the EQUINOR Trademark (see section 3.1.4 of the [WIPO Overview 3.0](#)).

Second, as of the date of the registration of the disputed domain name, and of the Complaint, the Panel finds that it is not possible to conceive of a registration and use of the disputed domain name by the Respondent for any purpose other than to intentionally attempt to attract, for commercial purposes, Internet users to its website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation or endorsement of the Respondent's website. Indeed:

- the Complainant has provided evidence that the disputed domain name resolved to a website promoting discounted IT consumer gadgets such as cellphones and, gaming, and also provided articles on gambling, social media and more;
- the disputed domain name wholly and exclusively reproduces the EQUINOR Trademark;
- there is no evidence that the Respondent is generally known by the term of the disputed domain name;
- the Respondent could not have chosen and used the word "Equinor" in the disputed domain name for any reasons other than to take unfair advantage of the reputation of the Complainant and of the EQUINOR Trademark;
- the Respondent's identity is masked by a privacy service;
- the Respondent has not demonstrated any right or interest in the disputed domain name;
- the Respondent has not provided any answer to the Complainant's contentions.

Finally, 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 (see section 3.3 of the [WIPO Overview 3.0](#)).

Therefore, in view of all the circumstances of this case, the Panel holds that the Respondent has registered and is using the disputed domain name in bad faith according to the Policy, paragraph 4(a)(iii) and 4(b).

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.website> be transferred to the Complainant.

/Christiane Féral-Schuhl/

Christiane Féral-Schuhl

Sole Panelist

Date: April 25, 2022