

ADMINISTRATIVE PANEL DECISION

Equinor ASA v. program business
Case No. D2022-4300

1. The Parties

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

The Respondent is program business, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <equinorenergy.trade> (the "Domain Name") is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 11, 2022. On November 11, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On November 11, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Privacy Service Provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 14, 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 November 15, 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 November 21, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 11, 2022. The Respondent sent an informal communication to the Center on November 14, 2022. The Respondent did not submit any formal response. Accordingly, the Center notified the parties that it would proceed to panel appointment on December 14, 2022. The Complainant submitted a supplemental filing on December 14, 2022.

The Center appointed Olga Zalomiy as the sole panelist in this matter on January 4, 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 international energy company that owns numerous trademark registrations for the trademark EQUINOR, such as:

- the European Union trademark EQUINOR, No 017900772, registered on January 18, 2019;
- the International trademark EQUINOR, No 1444675, registered on July 4, 2018;
- the Norwegian trademark EQUINOR, No. 298811, registered on June 12, 2018;
- the United States of America trademark EQUINOR, No 6436681, registered on August 3, 2021.

The Respondent registered the Domain Name on November 7, 2022. At the time of the Complainant's submission, the Domain Name directed to a website that purported to be an online platform for generating income from investing in cryptocurrency mining. Currently, the Domain Name does not direct to any active website.

5. Parties' Contentions

A. Complainant

The Complainant's allegations can be summarized as follows:

The Complainant asserts that the Domain Name is confusingly similar to the Complainant's trademark EQUINOR as the Domain Name incorporates the trademark in its entirety. The Complainant states that the addition of the word "energy" in the Domain Name does nothing to dissipate confusion between the Domain Name and the Complainant's trademark. The Complainant contends that the generic Top-Level Domain ("gTLD") ".trade" is not sufficient to prevent finding of the confusing similarity between the Complainant's trademark and the Domain Name.

The Complainant contends that the Respondent has no rights to or legitimate interests in respect of the Domain Name based on the Complainant's prior use of its trademark EQUINOR and company name Equinor. The Complainant claims 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 Complainant argues that 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 Domain Name and has not acquired any trademark or service mark rights in that name or mark. The Complainant alleges that the Respondent is not using the Domain Name in connection with a *bona fide* offering of goods or services.

The Complainant argues that the Respondent has intentionally registered and is using the Domain Name in bad faith for the following reasons: 1) it is apparent from the composition of the Domain Name that the Respondent chose to register a name that is confusingly similar to the Complainant's trademark EQUINOR that the Respondent was aware of the fact that it incorporated a well-recognized and distinctive trademark in which the Respondent had no prior rights; 2) the Complainant's announcement of its name change to EQUINOR predates registration of the Domain Name by more than four years; 3) the Respondent attempts to confuse Internet users into believing that there is a legitimate connection between the Complainant and the website under the Domain Name because the FAQ section of the website makes several references to "equinorenergy.trade" even though the purported name of the Respondent's business is "Zillionairebtc".

B. Respondent

The Respondent sent an informal email to the Center on November 14, 2022, stating “I’m confused, please make me understand the purpose of this mail”. The Respondent did not submit a formal response.

6. Discussion and Findings

6.1. Complainant’s supplemental submission

On December 14, 2022, the Complainant sent an unsolicited email to the Center titled “Additional information to the case file”. “Paragraph 10 of the UDRP Rules vests the panel with the authority to determine the admissibility, relevance, materiality and weight of the evidence, and also to conduct the proceedings with due expedition”¹. It is well-established, that “Unsolicited supplemental filings are generally discouraged, unless specifically requested by the panel.”² “Submitting or requesting to submit an unsolicited supplemental filing should clearly show its relevance to the case and why it was unable to provide the information contained therein in its complaint or response (e.g., owing to some “exceptional” circumstance)”.³

Because the Complainant failed to show relevancy of its submission to the proceeding and it contained no proof supporting factual allegations in the email, the Panel disregarded the unsolicited filing.

6.2. Discussion and Findings

Pursuant to paragraph 4(a) of the UDRP, to succeed in this proceeding, the Complainant must prove each of the following elements with respect to the Domain Name:

- (i) the 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 Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The submitted evidence shows that the Complainant owns several trademark registrations for the EQUINOR trademark. Pursuant to section 1.2.1 of the [WIPO Overview 3.0](#), this satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case.

The Domain Name consists of the Complainant’s EQUINOR trademark, the word “energy” and the gTLD “.trade”. “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.”⁴ It is well-established that the applicable gTLD should be disregarded under the confusing similarity test as a standard registration requirement.⁵

Because the Complainant’s EQUINOR trademark is recognizable within the Domain Name, the addition of the word “energy” to the mark does not prevent finding of confusing similarity. The gTLD “.trade” is disregarded from the assessment of confusing similarity. Therefore, the Domain Name is confusingly similar to the Complainant’s EQUINOR trademark.

The Complainant has satisfied the first element of the UDRP.

¹ Section 4.6., WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#).”)

² *Id.*

³ *Id.*

⁴ Section 1.8., [WIPO Overview 3.0](#).

⁵ Section 1.11.1., [WIPO Overview 3.0](#)

B. Rights or Legitimate Interests

To demonstrate rights or legitimate interests in a domain name, non-exclusive respondent defenses under the UDRP, paragraph 4(c) include the following:

- (i) before any notice 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 (as an individual, business, or other organization) has been commonly known by the domain name, even if the respondent 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.

To prove the second UDRP element, the Complainant must make out a *prima facie* case⁶ in respect of the lack of rights or legitimate interests of the Respondent.

The Complainant submitted evidence that shows that the Respondent has not been commonly known by the Domain Name. The Respondent has not had permission or authorization from the Complainant to use the Complainant's trademark in the Domain Name. Nor the Respondent used the Domain Name in connection with a *bona fide* offering of goods or services. Prior to filing of the Complaint, the website under the Domain Name used to display a Zillionairebtc logo and some information about Zillionairebtc company that purportedly ran an online investment platform that invested into cryptocurrency mining. Yet, the frequently asked questions page of the website contained several references to "equinorenergy.trade". There is no explanation for such use of the EQUINOR mark other than the Respondent's attempt to create an impression of an affiliation between the Complainant's business and the website under the Domain Name. After the Complaint was filed, content of the website under the Domain Name changed. The Zillionairebtc logo was replaced by a EQUINORENERGY logo, presumably to legitimize the Respondent's use of the Domain Name. Later, the Respondent deleted the website altogether. Such use does not constitute a *bona fide* offering of goods or services.

While it was active, the website under the Domain Name contained no disclosure regarding lack of any relationship between the Complainant and the Respondent. Based on the similarity between the Domain Name and the Complainant's trademark and the content of the Respondent website's FAQ, the Panel concludes that the website at the Domain Name suggested affiliation between the Complainant and the Respondent. As a result, the Respondent's use of the Domain Name is not fair, because "it falsely suggests affiliation with the trademark owner".⁷

Therefore, the Complainant has made out the *prima facie*⁸ case in respect of the lack of rights or legitimate interests of the Respondent, so the burden of producing evidence demonstrating it has rights or legitimate interests in the Domain Name, has shifted to the Respondent. The Respondent has failed to present any rebutting evidence, so the Panel concludes that the Complainant is deemed to have satisfied the second element of the UDRP.

C. Registered and Used in Bad Faith

Pursuant to paragraph 4(a)(iii) of the Policy, the Complainant must prove that the Domain Name was registered and is being used in bad faith.

⁶ Section 2.1, [WIPO Overview 3.0](#).

⁷ Section 2.5, [WIPO Overview 3.0](#).

⁸ *Id.*

The UDRP establishes that, for purposes of paragraph 4(a)(iii), “bad faith” registration and use of a domain name can be established by a showing of circumstances indicating that the respondent is using the domain name to intentionally attempt to attract, for commercial gain, Internet users to the respondent’s website or other online location, by creating a likelihood of confusion with the complainant’s mark as to 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. See Policy, paragraph 4(b)(iv). Prior UDRP panels have found “the following types of evidence to support a finding that a respondent has registered a domain name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the complainant’s mark:… (ii) seeking to cause confusion (including by technical means beyond the domain name itself) for the respondent’s commercial benefit, even if unsuccessful, (iii) the lack of a respondent’s own rights to or legitimate interests in a domain name, … (vi) absence of any conceivable good faith use.”⁹

Based on the evidence submitted by the Complainant, the Panel concludes that the Respondent has registered and is using the Domain Name in bad faith.

Given that the Complainant’s trademark is a made-up word with no meaning in any language, the references to the mark on the Complainant’s website and the widespread dissemination of information about the Complainant’s adoption of the EQUINOR mark, the Respondent could not plausibly assert that, in registering the Domain Name, which fully incorporates the EQUINOR trademark, it was not aware of the Complainant’s rights in the EQUINOR mark.

Instead, it is likely that the Respondent registered the Domain Name to trade on the goodwill of the Complainant’s trademark. Initially, the website at the Domain Name offered a cryptocurrency investment platform purportedly belonging to Zillionaierbtc. However, the FAQ section of the website at the Domain Name was designed to create an impression that it was associated with the Complainant. Therefore, the Panel concludes that the Respondent registered and is using the Domain Name to intentionally attempt to attract, for commercial gain, Internet users to the Respondent’s website or other online location, by creating a likelihood of confusion with the Complainant’s mark as to 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.

The Panel finds that the Respondent’s current non-use or passive holding of the Domain Name constitutes further evidence of the Respondent’s bad faith. First, it is well-established that non-use of a domain name would not prevent finding of bad faith.¹⁰ Second, the Respondent’s failure to submit a response, its registration of the Domain Name incorporating the Complainant’s distinctive trademark and the Respondent’s prior bad-faith use of the Domain Name that makes any good faith use of the Domain Name implausible have all been found to support finding of bad faith by prior panels.¹¹

The Complainant has satisfied the third element of the UDRP.

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 Domain Name, <equinorenergy.trade>, be transferred to the Complainant.

/Olga Zalomiy/

Olga Zalomiy

Sole Panelist

Date: January 18, 2023

⁹ Section 3.1.4, [WIPO Overview 3.0](#).

¹⁰ Section 3.3, [WIPO Overview 3.0](#)

¹¹ *Id.*