

ADMINISTRATIVE PANEL DECISION

Equinor ASA v. fan jian fei
Case No. D2022-4688

1. The Parties

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

Respondent is fan jian fei, China.

2. The Domain Name and Registrar

The disputed domain name <equinorgroup.com> is registered with Xiamen 35.Com Technology Co., Ltd. (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on December 7, 2022. On December 8, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 9, 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 Complainant on December 9, 2022, 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 in English on December 13, 2022.

On December 9, 2022, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On December 13, 2022, Complainant submitted its request that English be the language of the proceeding. Respondent did not comment on the language of the proceeding.

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 in English and Chinese of the Complaint, and the proceedings commenced on December 20, 2022. In accordance with the

Rules, paragraph 5, the due date for Response was January 9, 2023. Respondent's informal communications were received on January 6, 2023 in which Respondent expressed his willingness to settle the dispute. On January 9, 2023, the Center informed the Parties if they wanted to explore settlement options, Complainant should submit a request to suspend the proceeding. On January 23, 2023, Complainant requested the Center to proceed with the case. The Center notified the Commencement of Panel Appointment Process to the Parties on January 23, 2023.

The Center appointed Yijun Tian as the sole panelist in this matter on February 7, 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

A. Complainant

Complainant, Equinor ASA, is a company incorporated in Norway. Founded in 1972, Complainant, formally known as Statoil ASA, is a broad international energy company with operations in more than 30 countries around the world developing oil, gas, wind, and solar energy. Complainant changed its name to Equinor ASA in 2018. The name change was announced on the March 15, 2018 and the news were shared and commented worldwide on different media platforms.

Complainant is the exclusive owner of numerous EQUINOR trademarks worldwide, including the European Union ("EU") trademark registered on January 18, 2019 (the EU trademark number 017900772); the Norway trademark registered on June 12, 2018 (the Norway trademark registration number 298811); the International trademark registered on July 4, 2018 (the International trademark registration number 1444675); and the United States of America ("U.S.") trademark registered on August 3, 2021 (the U.S. trademark registration number 6436681). Complainant also registered numerous domain names which contain the EQUINOR trademark, such as <equinor.com>, <equinor.com.au>, <equinor.biz>, <equinor.cn>, and <equinor.us>.

B. Respondent

Respondent is fan jian fei, China. The disputed domain name was registered on November 30, 2022. The disputed domain name resolves to a website which is currently inactive.

5. Parties' Contentions

A. Complainant

Complainant contends that the disputed domain name is confusingly similar to Complainant's EQUINOR trademark. The disputed domain name incorporates the EQUINOR mark in its entirety with the addition of the word "group" under the generic Top-Level Domain ("gTLD") ".com". The addition of the term "group" is not sufficient to eliminate the confusing similarity. The gTLD ".com" is irrelevant when assessing whether a domain name is identical or confusingly similar to a mark as it is a functional element.

Complainant contends that Respondent has no rights or legitimate interests in the disputed domain name.

Complainant contends that the disputed domain name was registered and is being used in bad faith.

Complainant requests that the disputed domain name be transferred to it.

B. Respondent

Respondent sent email communications to the Center on January 6, 2023, stating, *inter alia*, that he is a construction engineer with a legitimate occupation and income, and therefore it is not necessary to use the disputed domain name in bad faith; and the purpose of registering the disputed domain name is to reserve a name in advance for future entrepreneurial projects. Respondent also suggested both Parties should communicate first and try to solve the problem through negotiation in a timely manner and no one has much energy to deal with the domain name dispute matters.

6. Discussion and Findings

6.1. Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement. From the evidence presented on the record, no agreement appears to have been entered into between Complainant and Respondent to the effect that the language of the proceeding should be English. Complainant filed initially its Complaint in English, and has requested that English be the language of the proceeding for following reasons:

- (a) although Respondent is based in China, Complainant and its representative are based in Scandinavia with no knowledge of the Chinese language and will therefore not be able to understand a Chinese proceeding correctly without external assistance. This would not only make the proceeding more time consuming as Complainant would have to contact a local agent in China, but it would also increase the cost for Complainant, who already carries the financial cost for the UDRP;
- (b) Complainant finds that by having the proceeding in English it is able to present its case in a fair way and Complainant sees difficulties in presenting the case against the disputed domain name fairly by having Chinese as the only language of the proceeding;
- (c) the disputed domain name does contain the English word “group” so Respondent must have had some awareness of English when registering the disputed domain name. Respondent is also using the gTLD “.com” which is one of the most used gTLDs. It should also be noted that this gTLD is an abbreviation of an English word;
- (d) Complainant has been able to locate Respondent’s email address being used for other domain names also containing English words. The search results display several domain names containing the word “group” that have been registered using Respondent’s email address. Complainant believes that Respondent has an understanding of the English language; and
- (e) the website at a domain name registered by Respondent also has the English content – this once again confirms that Respondent is able to understand English. The same domain name is also available for sale. Respondent, therefore, hopes that someone will purchase this domain name and must deliberately have chosen to put this domain name to sale and understand the content of the website to generate the desired outcome.

Respondent sent email communications in Chinese but did not make any explicit submissions with respect to the language of the proceeding and did not object to the use of English as the language of the proceeding.

Paragraph 11(a) of the Rules allows the panel to determine the language of the proceeding having regard to all the circumstances. In particular, it is established practice to take paragraphs 10(b) and (c) of the Rules into consideration for the purpose of determining the language of the proceeding. In other words, it is important to ensure fairness to the parties and the maintenance of an inexpensive and expeditious avenue

for resolving domain name disputes (*Whirlpool Corporation, Whirlpool Properties, Inc. v. Hui'erpu (HK) electrical appliance co. Ltd.*, WIPO Case No. [D2008-0293](#); *Solvay S.A. v. Hyun-Jun Shin*, WIPO Case No. [D2006-0593](#)). The language finally decided by the panel for the proceeding should not be prejudicial to either one of the parties in its abilities to articulate the arguments for the case (*Groupe Auchan v. xmxzl*, WIPO Case No. [DCC2006-0004](#)). Section 4.5.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") further states:

"Noting the aim of conducting the proceedings with due expedition, paragraph 10 of the UDRP Rules vests a panel with authority to conduct the proceedings in a manner it considers appropriate while also ensuring both that the parties are treated with equality, and that each party is given a fair opportunity to present its case.

Against this background, panels have found that certain scenarios may warrant proceeding in a language other than that of the registration agreement. Such scenarios include (i) evidence showing that the respondent can understand the language of the complaint, (ii) the language/script of the domain name particularly where the same as that of the complainant's mark, (iii) any content on the webpage under the disputed domain name, (iv) prior cases involving the respondent in a particular language, (v) prior correspondence between the parties, (vi) potential unfairness or unwarranted delay in ordering the complainant to translate the complaint, (vii) evidence of other respondent-controlled domain names registered, used, or corresponding to a particular language, (viii) in cases involving multiple domain names, the use of a particular language agreement for some (but not all) of the disputed domain names, (ix) currencies accepted on the webpage under the disputed domain name, or (x) other indicia tending to show that it would not be unfair to proceed in a language other than that of the registration agreement." (See also *L'Oreal S.A. v. MUNHYUNJA*, WIPO Case No. [D2003-0585](#)).

On the record, Respondent appears to be a Chinese resident and is thus presumably not a native English speaker. However, considering the following, the Panel has decided that English should be the language of the proceeding: (a) the disputed domain name includes Latin characters and an English word "group", rather than Chinese scripts; (b) the Center has notified Respondent of the proceeding in both Chinese and English; (c) the Center informed the Parties, in English and Chinese, that it would accept a Response in either English or Chinese; (d) Respondent was able to reply to the Complaint (through email communications on January 6, 2023); and (e) Complainant is a company from Norway, and Complainant will be spared the burden of working in Chinese as the language of the proceeding.

Accordingly, the Panel finds that the choice of English as the language of the present proceeding is fair to both Parties and is not prejudicial to either one of the Parties in its ability to articulate the arguments for this case. Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that English shall be the language of the proceeding, and the decision will be rendered in English.

6.2. Substantive Issues

Paragraph 4(a) of the Policy requires that Complainant must prove each of the following three elements to obtain an order that the disputed domain name should be cancelled or transferred:

- (i) the disputed domain name registered by Respondent is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (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.

On the basis of the evidence introduced by Complainant and in particular with regard to the content of the relevant provisions of the Policy (paragraphs 4(a)-(c)), the Panel concludes as follows:

A. Identical or Confusingly Similar

The Panel finds that Complainant has rights in the EQUINOR marks acquired through registration and use. The EQUINOR marks have been registered in Norway since 2018, registered internationally since 2018, and registered in the EU since 2019. The disputed domain name comprises the EQUINOR mark in its entirety. The disputed domain name only differs from Complainant's trademark by the term "group", and the gTLD ".com". This does not prevent a finding of confusing similarity between Complainant's registered trademark and the disputed domain name.

Previous UDRP panels have consistently held that a domain name is identical or confusingly similar to a trademark for purposes of the Policy "when the domain name includes the trademark, or a confusingly similar approximation, regardless of the other terms in the domain name" (*Wal-Mart Stores, Inc. v. Richard MacLeod d/b/a For Sale*, WIPO Case No. [D2000-0662](#)).

Further, in relation to the gTLD, section 1.11.1 of the [WIPO Overview 3.0](#) states: "The 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."

Thus, the Panel finds that the disputed domain name is confusingly similar to the EQUINOR mark.

The Panel therefore holds that the Complaint fulfils the first condition of paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances any of which is sufficient to demonstrate that Respondent has rights or legitimate interests in the disputed domain name:

- (i) before any notice to Respondent of the dispute, the use by Respondent of, or 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; or
- (ii) Respondent has been commonly known by the disputed domain name, even if Respondent has acquired no trademark or service mark rights; or
- (iii) Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish Complainant's trademarks.

The overall burden of proof on this element rests with Complainant. However, it is well established by previous UDRP panel decisions that once a complainant establishes a *prima facie* case that a respondent lacks rights or legitimate interests in a domain name, the burden of production shifts to respondent to rebut the complainant's contentions. If the respondent fails to do so, the complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy. (*Danzas Holding AG, DHL Operations B.V. v. Ma Shikai*, WIPO Case No. [D2008-0441](#); [WIPO Overview 3.0](#), section 2.1, and cases cited therein).

Complainant has rights in the EQUINOR marks in Norway and internationally since 2018, and in the EU since 2019, which precede Respondent's registration of the disputed domain name (2022). According to the Complaint, founded in 1972, Complainant, formally known as Statoil ASA, is a broad international energy company with operations in more than 30 countries around the world developing oil, gas, wind, and solar energy. Moreover, Respondent is not an authorized dealer of Equinor branded products or services. Complainant has therefore established a *prima facie* case that Respondent has no rights or legitimate interests in the disputed domain name and thereby shifted the burden to Respondent to produce evidence to rebut this presumption (see *The Argento Wine Company Limited v. Argento Beijing Trading Company*, WIPO Case No. [D2009-0610](#); *Do The Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#); and *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#)).

Based on the following reasons, the Panel finds that Respondent has no rights or legitimate interests in the disputed domain name:

- (a) there has been no evidence adduced to show that Respondent is using the disputed domain name in connection with a *bona fide* offering of goods or services. Respondent has not provided evidence of legitimate use of the disputed domain name or reasons to justify the choice of the term “equinor” in the disputed domain name and in his business operation. Although Respondent indicated that he registered the disputed domain name for future entrepreneurial projects, Respondent has provided no evidence related to claimed future entrepreneurial projects. There has been no evidence to show that Complainant has licensed or otherwise permitted Respondent to use the EQUINOR marks or to apply for or use any domain name incorporating the EQUINOR marks;
- (b) there has been no evidence adduced to show that Respondent has been commonly known by the disputed domain name. There has been no evidence adduced to show that Respondent has any registered trademark rights with respect to the disputed domain name. Respondent registered the disputed domain name in 2022, after the EQUINOR marks became internationally known. The disputed domain name is confusingly similar to Complainant’s EQUINOR marks; and
- (c) there has been no evidence adduced to show that Respondent is making a legitimate noncommercial or fair use of the disputed domain name. The website resolved by the disputed domain name is currently inactive, and is listed for sale for “\$4,285” on a third party platform.

The Panel finds that Respondent has failed to produce any relevant evidence to establish rights or legitimate interests in the disputed domain name. The Panel therefore holds that the Complaint fulfils the second condition of paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy sets out four circumstances which, without limitation, shall be evidence of the registration and use of the disputed domain name in bad faith, namely:

- (i) circumstances indicating that Respondent has registered or acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to Complainant who is the owner of the trademark or service mark or to a competitor of Complainant, for valuable consideration in excess of Respondent’s documented out-of-pocket costs directly related to the disputed domain name; or
- (ii) Respondent has registered the disputed 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 Respondent has engaged in a pattern of such conduct; or
- (iii) Respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the disputed domain name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent’s website or other online location, by creating a likelihood of confusion with Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of Respondent’s website or location or of a product or service on the website or location.

The Panel finds that it is adequate to conclude that Respondent has registered and used the disputed domain name in bad faith for the reasons below.

(a) Registration in Bad Faith

The Panel finds that Complainant has a widespread reputation in the EQUINOR marks with regard to its products or services. Complainant has registered its EQUINOR marks in Norway and internationally since 2018, in the EU since 2019, and in the U.S. since 2021. As introduced above, founded in 1972, Complainant is a broad international energy company with operations in more than 30 countries around the world developing oil, gas, wind, and solar energy. It is not conceivable that Respondent would not have had actual notice of Complainant's trademark rights at the time of the registration of the disputed domain name.

The Panel therefore finds that the EQUINOR mark is not one that a trader could legitimately adopt other than for the purpose of creating an impression of an association with Complainant (*The Argento Wine Company Limited v. Argento Beijing Trading Company, supra*).

Thus, the Panel concludes that the disputed domain name was registered in bad faith.

(b) Use in Bad Faith

The disputed domain name is currently inactive. In terms of inactive domain names, section 3.3 of the [WIPO Overview 3.0](#) provides: "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."

Section 3.3 of the [WIPO Overview 3.0](#) further states:

"While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put."

As discussed above, Complainant's EQUINOR marks are distinctive and widely known. The disputed domain name, which consists of Complainant's marks and the term "group", would most likely mislead Internet users into believing that the disputed domain name is associated with Complainant. Therefore, the Panel does not see any plausibility of any good faith use to which the disputed domain name may be put. Taking into account all the circumstances of this case, the Panel concludes that the current inactive use of the disputed domain name by Respondent is in bad faith also.

In summary, Respondent, by choosing to register and use the disputed domain name, which is confusingly similar to Complainant's well-known trademarks, intended to take advantage of the reputation of Complainant and its marks. In the absence of evidence to the contrary and rebuttal from Respondent, the choice of the disputed domain name and the conduct of Respondent are indicative of registration and use of the disputed domain name in bad faith.

The Panel therefore holds that the Complaint fulfils the third condition of paragraph 4(a) of the Policy.

7. Decision

For all 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 <equinorgroup.com> be transferred to Complainant.

/Yijun Tian/

Yijun Tian

Sole Panelist

Date: March 9, 2023