

ADMINISTRATIVE PANEL DECISION

Equinor ASA v. Frode Fiksdal
Case No. D2023-0313

1. The Parties

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

The Respondent is Frode Fiksdal, Norway.

2. The Domain Name and Registrar

The disputed domain name <equinor-energy.com> (the “Domain Name”) is registered with Realttime Register B.V. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 24, 2023. On January 24, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On January 25, 2023, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on January 25, 2023, providing the registrant and contact information behind the privacy service as disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on January 28, 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 the Respondent of the Complaint, and the proceedings commenced on January 31, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 1, 2023. The Respondent sent an informal communication to the Center on January 31, 2023. On February 6, 2023, the Complainant requested suspension of the proceeding to seek settlement in the matter. No settlement was reached between the parties, and the proceeding was reinstated on February 16, 2023. The Respondent sent a further informal communication to the Center on March 8, 2023, to which the Center replied the day after. The Respondent did not submit any formal response. Accordingly, the Center notified the parties that it would proceed to panel appointment

on March 2, 2023.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on March 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 to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is an international energy company with operations in more than 30 countries around the world developing oil, gas, wind, and solar energy. The Complainant was founded as The Norwegian State Oil Company (Statoil) in 1972 and the Norwegian State holds 67 percent of the shares. The Complainant changed its company name to Equinor in 2018. The name change was announced worldwide on different media platforms. In parallel to the name change, EQUINOR trademark applications have been filed worldwide, among them Norwegian trademark registration No. 298811, registered on June 12, 2018.

The Complainant 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”).

According to the Complainant, the Domain Name was registered on March 15, 2018. At the time of drafting the Decision, the Domain Name resolves to an error page.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name. Notably, the Complainant provides evidence of trademark registrations and contends that the Domain Name is identical to the Complainant’s trademark EQUINOR.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the Domain Name. The Complainant asserts that the Respondent is not affiliated with the Complainant. The Respondent has not been granted any license to use the EQUINOR trademark nor was the Respondent otherwise authorized by the Complainant to use the trademark. There is no evidence of the Respondent’s use of, or 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.

The Complainant believes it is evident that the Respondent was fully of the fact that it incorporated a well-recognized and distinctive trademark in which the Respondent had no prior rights. The Respondent’s use of the Domain Name and the Respondent’s use is further evidence of bad faith.

The Complainant believes it is evident from the composition of the Domain Name that the Respondent, with listed domicile in Norway, chose to register a name that is confusingly similar to the Complainant’s trademark and registered company name. The Respondent 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 Mail Exchanger records (“MX-records”) are activated for the Domain Name, which may indicate that the Respondent registered the Domain Name for use in phishing or other bad faith activity. The use of a privacy service may also under the circumstances be an indication of bad faith.

B. Respondent

The Respondent did not reply to the Complainant's contentions, but has as mentioned sent an informal email to the Center on January 31, 2023 with the text: "Hello, This domain have been canceled some time ago. I guess you easily could buy it when you want."

The Respondent sent a further informal communication to the Center on March 8, 2023, asking if it was possible to receive information in Norwegian.

6. Discussion and Findings

A. Identical or Confusingly Similar

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 the Complainant's trademark and the Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

The Complainant has established that it has rights in the trademark EQUINOR. In this case, the Domain Name incorporates the Complainant's trademark with the addition of "-energy". The addition does not prevent a finding of confusing similarity between the Domain Name and the trademark. For the purpose of assessing under paragraph 4(a)(i) of the Policy, the Panel may ignore the gTLD; see [WIPO Overview 3.0](#), section 1.11.

The Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

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

While the overall burden of proof in UDRP proceedings is on the 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 the respondent. As such, where a complainant makes out a *prima facie* case 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. [WIPO Overview 3.0](#), section 2.1.

Based on the evidence, the Respondent is not affiliated or related to the Complainant in any way. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired trademark rights. There is no evidence of 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. The Panel finds that the composition of the Domain Name, carries a high risk of implied affiliation with the Complainant.

The Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name in accordance with paragraph 4(a)(ii) 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 finds it evident that the Respondent registered the disputed domain name in anticipation of the Complainant's trademark rights. The Complainant submits that registration of the disputed domain name took place on the day of the Complainant's name change, March 15, 2018, (Annex C to the Complaint). The fact that the registration took place on the same day that media around the world wrote articles about the name change cannot be viewed as a coincident. Especially not as the Respondent appears to be located in the same country as the Complainant, Norway, given that this news was widely spread in Norwegian media (Annex K to the Complaint). The Respondent has not offered any explanation to why it registered a Domain Name confusingly similar to the Complainant's trademark. The record of this case does not entail any plausible legitimate reason for the Respondent to have registered the Domain Name without any association with or authorization from the Complainant. The activated MX-records and use of a privacy service further indicate bad faith.

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 <equinor-energy.com> be transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: March 14, 2023