

ADMINISTRATIVE PANEL DECISION

Equinor ASA v. Abir Roy
Case No. D2023-1617

1. The Parties

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

The Respondent is Abir Roy, Bangladesh.

2. The Domain Name and Registrar

The disputed domain name <equinorbd.com> is registered with Cosmotown, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 13, 2023. On April 14, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 20, 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 and contact information in the Complaint.

The Center sent an email communication to the Complainant on April 20, 2023, 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 April 20, 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 April 21, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 11, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 12, 2023.

The Center appointed Zoltán Takács as the sole panelist in this matter on May 16, 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, formerly known as Statoil ASA is a Norwegian energy company with operations in more than 30 countries of the world, developing oil, gas, wind and solar energy.

The Complainant is among others owner of the International Trademark Registration (“IR”) No. 1444675 for the word mark EQUINOR, registered since July 4, 2018 in multiple classes of goods and services of Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks.

The Complainant’s principal website is at “www.equinor.com”. The corresponding domain name was registered on June 15, 2011.

The disputed domain name <equinorbd.com> was registered on April 6, 2023, and was redirecting to a cloud-based mobile and desktop messaging app. The connecting investment type profile under the name EquinorAsia10 had more than 3000 members with the posts being written in Bengali, the official language of Bangladesh.

Currently the disputed domain points to a website called Energy Asia, offering the visitors two options: to enter the site upon providing a number and a password, or to register.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the disputed domain name fully incorporates its EQUINOR trademark and is therefore confusingly similar to it. The difference between the disputed domain name and its trademark is the addition of the abbreviation “bd”, which is the two letter country code for Bangladesh, the Respondent’s apparent country of domicile.

The Complainant alleges that the Respondent has no rights or legitimate interests in respect of the disputed domain name and is unable to rely on any of the circumstances set out in paragraphs 4(c)(i), (ii), or (iii) of the Policy.

The Complainant contends that the disputed domain name was registered and is used in bad faith. First, the Respondent’s full incorporation of its distinctive EQUINOR trademark into the disputed domain name indicates that the Respondent must have been aware of its trademark at the time of registration of the disputed domain name and second, since the MX-records (*i.e.* the mail exchanger records specifying the mail server responsible for accepting email messages) are set up for the disputed domain name there is a risk that it could be used for sending fraudulent email messages.

The Complainant requests that the disputed domain name be transferred from the Respondent to the Complainant.

B. Respondent

The Respondent did not reply to the Complainant’s contentions.

6. Discussion and Findings

Paragraph 15(a) of the Rules requires that the Panel’s decision be made “on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

A complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the complaint, namely that;

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (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

Under paragraph 4(a)(i) of the Policy, there are two requirements which the Complainant must establish, first that it has rights in a trademark or service mark, and second that the disputed domain name is identical or confusingly similar to the trademark or service mark.

It has been a consensus view among UDRP panels that if the complainant owns a national or regional trademark it generally satisfies the threshold requirement of having trademark rights.

The Complainant produced evidence of having registered rights in the EQUINOR trademark and for the purpose of this proceeding the Panel establishes that the IR No. 1444675 satisfies the requirement of having trademark rights for the purpose of the Policy.

Having determined the presence of the Complainant's trademark rights, the Panel next assessed whether the disputed domain name is identical or confusingly similar to the Complainant's trademark.

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. If so, the domain name is normally considered confusingly similar to that mark for the purposes of UDRP standing. See section 1.7 of the [WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition \("WIPO Overview 3.0"\)](#).

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. See section 1.8 of the [WIPO Overview 3.0](#).

The disputed domain name incorporates the Complainant's EQUINOR trademark in its entirety. Addition of the abbreviation "bd" does not prevent a finding of confusing similarity.

According to section 1.11.1 of the [WIPO Overview 3.0](#), the applicable Top-Level Domain ("TLD") in a domain name (in this case ".com") is viewed as a standard registration requirement and as such is generally disregarded under the first element confusingly similar test.

The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark and that requirement of paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

Under paragraph 4(c) of the Policy, a respondent may demonstrate its rights or legitimate interests in a domain name by showing any of the following circumstances, in particular but without limitation:

- (i) its use of, or demonstrable preparation to use the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods and services;

- (ii) it has been commonly known by the domain name;
- (iii) it is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert customers or to tarnish the trademark or service mark at issue.

In the present case, the Complainant has submitted uncontested evidence that it holds well-established rights in the EQUINOR trademark.

According to section 2.1 of the [WIPO Overview 3.0](#), 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 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 the 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 Respondent is not affiliated with the Complainant in any way and has not been authorized by the Complainant to register and use the disputed domain name or to seek the registration of any domain name incorporating its EQUINOR trademark.

There is no evidence that the Respondent has use or made demonstrable preparations to use the disputed domain name in connection with a legitimate noncommercial fair use or a *bona fide* offering of goods and services.

The Respondent defaulted and failed to respond, and by doing so failed to offer the Panel any type of evidence set forth in paragraph 4(c) of the Policy, provide explanation or a reason for registering a domain name corresponding to the Complainant’s EQUINOR trademark for the purpose of promoting investment and energy sector related services unconnected to the Complainant, or otherwise counter the Complainant’s *prima facie* case.

Furthermore, the inherently misleading nature of the disputed domain name, incorporating the Complainant’s distinctive trademark and the ISO (the International Organization for Standardization) country code of Bangladesh, which appears to be the Respondent’s country of domicile tends to falsely suggest sponsorship or endorsement by the Complainant and cannot constitute fair use (see section 2.5.1 of the [WIPO Overview 3.0](#)).

The Panel finds, in the circumstances of this case, that the Respondent has no rights or legitimate interests in the disputed domain name in accordance with paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy lists a number of factors which, if found by the panel to be present, shall be evidence of registration and use of a domain name in bad faith. This non-exclusive list includes:

- (i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting or otherwise transferring the domain name registration 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 your documented out-of-pocket costs directly related to the domain name; or

- (ii) you have 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 you have engaged in a pattern of such conduct; or
- (iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your 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 your website or location or of a product or service on your website or location.

The Complainant's EQUINOR trademark, which the Respondent reproduced in the disputed domain name is inherently distinctive and predates the registration of the disputed domain name by years.

Given the Complainant's widespread use of its EQUINOR trademark and the Respondent's construction of the disputed domain name (the Complainant's trademark plus the abbreviation "bd", the Respondent's apparent country of domicile) the Panel infers on balance that the Respondent knew of the Complainant's business and prior rights at the time of obtaining the disputed domain name. In the Panel's opinion, it is unlikely that the Respondent registered the disputed domain name for any reason other than to target the Complainant's trademark by confusing Internet users expecting the disputed domain name to resolve to a website owned by, operated by, or affiliated with the Complainant. If it had, it is reasonable to expect from a good faith respondent to provide explanation and evidence to the contrary, which the Respondent ignored. This is a bad faith conduct as such, and in accordance with paragraph 4(b)(iv) of the Policy evidence of registration and use of the disputed domain name in bad faith.

Furthermore, in these circumstances, the Respondent's activation of MX records associated with the disputed domain name, enabling sending potential fraudulent emails creates a real and ongoing threat to the Complainant and is in view of the Panel further indicative of the Respondent's bad faith.

For the reasons set out above, the Panel finds that the Respondent has registered and is using the disputed domain name in bad faith and that paragraph 4(a)(iii) of the Policy is satisfied.

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 <equinorbd.com> be transferred to the Complainant.

/Zoltán Takács/

Zoltán Takács

Sole Panelist

Date: May 25, 2023