

ADMINISTRATIVE PANEL DECISION

Equinor ASA v. Kevin Mauger

Case No. D2023-2448

1. The Parties

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

The Respondent is Kevin Mauger, France.

2. The Domain Name and Registrar

The disputed domain name <be-equinor.com> is registered with Hosting Concepts B.V. d/b/a Registrar.eu. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on June 7, 2023. On June 7, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 8, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 8, 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 June 8, 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 June 9, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 29, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 3, 2023.

The Center appointed Kateryna Oliinyk as the sole panelist in this matter on July 6, 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 state-owned multinational energy company founded in 1972 and with operations in more than 30 countries around the world developing oil, gas, wind and solar energy.

The Complainant was formerly known as Statoil ASA and has adopted its current name on March 15, 2018.

The Complainant is the holder of a series of EQUINOR trademark national and international registrations, including the following:

- International Trademark Registration No. 1467418 for EQUINOR & device, covering goods and services in international classes 1, 2, 4, 6, 7, 9, 16, 17, 19, 25, 28, 35, 36, 37, 39, 40, 41, 42 and registered on September 11, 2018;
- International Trademark Registration No. 1444675 for EQUINOR, covering goods and services in international classes 1, 2, 4, 6, 7, 9, 16, 17, 19, 25, 28, 35, 36, 37, 39, 40, 41, 42, and registered on July 4, 2018.

The EQUINOR trademark inherited the famous status of the STATOIL trademark and became known to everyone who knew Statoil before due to the widely published name change.

The Complainant is also the owner of more than 100 domain name registrations throughout the world containing the EQUINOR trademark distributed among generic Top-Level Domains (“gTLD”) and country code Top-Level Domains (“ccTLDs”).

The disputed domain name was registered on May 30, 2023 and does not resolve to an active website. The MX records are activated for the disputed domain name.

5. Parties’ Contentions

A. Complainant

Identical or Confusingly Similar

The Complainant contends that the disputed domain name and the EQUINOR trademark are confusingly similar.

According to the Complainant’s contentions, the disputed domain name fully incorporates the Complainant’s EQUINOR trademark. The Complainant’s trademark is the dominant feature in the disputed domain name and remains recognizable in the disputed domain name. The fact that the disputed domain name contains the element “be-” before the Complainant’s trademark does not prevent a confusing similarity.

The Complainant submits that the applicable gTLD in the disputed domain name should be viewed as a standard registration requirement and as such should be disregarded under the first element confusing similarity test.

No rights or legitimate Interests

The Respondent has no connection with the Complainant or any of its affiliates and has never sought or obtained any trademark registration for the EQUINOR trademark. The Complainant does not carry out any activity for, nor have any business with, the Respondent.

The Complainant further contends that the Respondent is not commonly known by the disputed domain name.

Passive holding of the disputed domain name is neither a *bona fide* offering of goods or services nor a legitimate noncommercial or fair use. The Respondent, therefore, has no rights or legitimate interests in the disputed domain name.

Registered and used in bad faith

The Complainant submits that the Respondent registered and is using the disputed domain name in bad faith. The Complainant contends that the EQUINOR trademark is famous and notorious and the Respondent must have been aware of the Complainant's EQUINOR trademark when it registered the disputed domain name as the disputed domain name incorporates it in its entirety.

The Complainant further contends that the passive holding of the disputed domain name does not preclude a finding of use in bad faith.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the Panel as to the principles the Panel is to use in determining the dispute: "[a] Panel shall decide a complaint 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."

Considering that the Respondent did not reply to the Complainant's contentions, in order to determine whether the Complainant has met its burden as stated in paragraph 4(a) of the Policy, the Panel bases its Decision on the statements and documents submitted and in accordance with the Policy and the Rules. Under paragraph 14(b) of the Rules, where a Party does not comply with any provision of the Rules, the Panel "shall draw such inferences therefrom as it considers appropriate".

Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following: (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 the first element, the Complainant must establish that the disputed domain name is identical with, or confusingly similar to, the Complainant's trademark rights.

There are two parts to this inquiry: the Complainant must demonstrate that it has rights in a trademark and, if so, the disputed domain name must be shown to be identical or confusingly similar to the trademark.

According to section 1.1.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), the term "trademark or service mark" as used in UDRP paragraph 4(a)(i) encompasses both registered and unregistered (sometimes referred to as common law) marks.

Ownership of a nationally or regionally registered trademark serves as a *prima facie* evidence that the Complainant has trademark rights for the purposes of standing to file this Complaint. See section 1.2 of the [WIPO Overview 3.0](#). The Complainant submitted evidence that the EQUINOR trademark enjoys protection under national and international trademark registrations. Thus, the Panel finds that the Complainant's rights in the EQUINOR trademark have been established pursuant to the first element of the Policy.

The disputed domain name consists of the Complainant's distinctive EQUINOR trademark preceding by the element "be-" and followed by the gTLD ".com".

According to section 1.8 of the [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. The nature of such additional term may however bear on assessment of the second and third elements.

Under section 1.7 of the [WIPO Overview 3.0](#), while each case is judged on its own merits, in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing.

Finally, for the purpose of assessing under paragraph 4(a)(i) of the Policy, the Panel may ignore the gTLD, see section 1.11.1 of the [WIPO Overview 3.0](#).

It is the view of the Panel that it is readily apparent that the Complainant's EQUINOR trademark remains recognizable in the disputed domain name.

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the EQUINOR trademark in which the Complainant has rights.

The first element of paragraph 4(a) of the Policy is therefore satisfied.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant must make at least a *prima facie* showing that a respondent possesses no rights or legitimate interests in a disputed domain name. See, e.g., *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#). Once a complainant makes such a *prima facie* showing, the burden of production shifts to the respondent, though the burden of proof always remains on the complainant. If the respondent fails to come forward with evidence showing rights or legitimate interests, the complainant will have sustained its burden under the second element of the UDRP.

Based on the Complainant's contentions, the Respondent is not a licensee of, or otherwise affiliated with, the Complainant, and has not been authorized by the Complainant to use its EQUINOR trademark.

Based on the case records, the Panel finds that there is no evidence that the Respondent has been commonly known by the disputed domain name, and there is no similarity or association between the name of the Respondent and the disputed domain name, which could demonstrate rights or legitimate interests of the Respondent. See, e.g., *World Natural Bodybuilding Federation, Inc. v. Daniel Jones TheDotCafe*, WIPO Case No. [D2008-0642](#).

The disputed domain name does not resolve to an active website. Prior UDRP panels have found that the passive holding of a disputed domain name is neither a *bona fide* offering of goods or services nor a legitimate noncommercial or fair use. See, by way of example, *Skyscanner Limited v. WhoisGuard Protected, WhoisGuard, Inc. / petrov petya*, WIPO Case No. [DCC2020-0003](#); *Instagram, LLC v. Zafer Demir, Yok*, WIPO Case No. [D2019-1072](#) ("The passive holding of the disputed domain name does not amount to use or preparations to use it in connection with a *bona fide* offering of goods and services. Nor is there any evidence which indicates that the Respondent is commonly known by the disputed domain name. Nor does a passive holding of the disputed domain name comprise a legitimate noncommercial or fair use of it.").

The Panel agrees and holds the passive holding of the disputed domain name by the Respondent in this

case as evidence that the Respondent has not registered the disputed domain name in connection with any *bona fide* offering of goods or services.

In addition, the Complainant contends that the MX records are set up for the disputed domain name, which indicates a potential risk of fraud, without this being rebutted by the Respondent. The use of a domain name for illegal activity (e.g., fraud, impersonation) can never confer rights or legitimate interests upon a respondent.

In the Panel's view, the use of the disputed domain name by the Respondent does not constitute either a *bona fide* use or a legitimate noncommercial or fair use of the disputed domain name.

By not submitting a Response, the Respondent has failed to invoke any circumstances which could demonstrate any rights or legitimate interests in the disputed domain name. Under such circumstances the Panel draws adverse inferences from this failure, where appropriate, in accordance with the Rules, paragraph 14(b).

The second element of paragraph 4(a) of the Policy is therefore satisfied.

C. Registered and Used in Bad Faith

Under section 3.3 of the [WIPO Overview 3.0](#), the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Previous UDRP panels have held that the passive holding of a domain name that incorporates a well-known trademark may confirm the bad faith use of a disputed domain name. See, *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

While panels 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. See, *Andrey Ternovskiy dba Chatroulette v. WhoisGuard Protected, WhoisGuard, Inc. / Armando Machado*, WIPO Case No. [D2018-0082](#).

These bad faith consideration factors are also produced in section 3.3 of the [WIPO Overview 3.0](#).

The Complainant has produced evidences showing that it owns registrations for the EQUINOR trademark, of which registration dates significantly precede the registration date of the disputed domain name.

In addition, the Complainant has credibly submitted that over the years it has developed substantial goodwill in the EQUINOR trademark. The Panel is convinced that the Complainant's trademark is well established through long and widespread use and the Complainant has acquired a significant reputation and goodwill in its trademark. See, e.g., *Carrefour SA v. hanib bas*, WIPO Case No. [D2020-1798](#); *Carrefour SA. v. Reliant-web Domain Admin / Jean Marie Grolleau / Joanne Elvert*, WIPO Case No. [D2021-2389](#); *Carrefour v. Andre Machado*, WIPO Case No. [DIO2020-0004](#).

Furthermore, according to section 3.1.4 of the [WIPO Overview 3.0](#), the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. Given the reputation of the EQUINOR trademark, registration in bad faith can be inferred. See, e.g., *Charles Jourdan Holding AG v. AAIM*, WIPO Case No. [D2000-0403](#).

Taking the above facts into consideration, it is not possible to conceive of any plausible actual or contemplated active use of the disputed domain name by the Respondent that would not be illegitimate. See *Telstra Corporation Limited v. Nuclear Marshmallows, supra*.

Finally, the Respondent has failed to submit a response or to provide any evidence of actual or contemplated good faith use of the disputed domain name.

To the contrary, the Complainant has provided evidence that MX (mail exchange) records have been established for the disputed domain name, indicating that the disputed domain name is being used to send email messages, perhaps of a fraudulent nature.

Here, the Panel considers also the concealment of the identity of the holder of the disputed domain name through use of a privacy shield to be a further indication of bad faith (see, *e.g.*, *BHP Billiton Innovation Pty Ltd v. Domains By Proxy LLC / Douglass Johnson*, WIPO Case No. [D2016-0364](#)).

In light of the aforesaid and applying the above-referenced factors, the Panel establishes that the Respondent registered and is using the disputed domain name in bad faith.

The third element of paragraph 4(a) of the Policy is therefore 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 <be-equinor.com> be transferred to the Complainant.

/Kateryna Oliinyk/

Kateryna Oliinyk

Sole Panelist

Date: August 1, 2023