

ADMINISTRATIVE PANEL DECISION

Equinor ASA v. Timothy Dunce
Case No. D2023-3347

1. The Parties

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

Respondent is Timothy Dunce, United States of America.

2. The Domain Name and Registrar

The disputed domain name <equinor-bullwinkle.com> (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 August 3, 2023. On August 4, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On August 4, 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 (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to Complainant on August 7, 2023, 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 on August 7, 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 Respondent of the Complaint, and the proceedings commenced on August 9, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 29, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on August 30, 2023.

The Center appointed Dinant T. L. Oosterbaan as the sole panelist in this matter on September 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

According to the information provided in the Complaint, Complainant is a Norwegian corporation, formerly known as Statoil ASA, originally 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. Statoil had grown up along with the emergence of the Norwegian oil and gas industry dating back to the late 1960s.

According to the evidence submitted, Complainant owns multiple registrations for the trademark EQUINOR including European Union Trademark No. 017900772, registration date January 18, 2019.

In addition, Complainant is the owner of more than 100 domain name registrations throughout the world containing the EQUINOR mark distributed among generic Top-Level Domains (“gTLD”) and country code Top-Level Domains (“ccTLDs”), including the domain name <equinor.com> which is used to resolve to its official website.

The Domain Name was registered on August 1, 2023. The Domain Name at the time of the Decision does not resolve to an active website. Previously the Domain Name redirected to Complainant’s official website.

The trademark registration of Complainant was issued prior to the registration of the Domain Name.

5. Parties’ Contentions

A. Complainant

Complainant submits that the Domain Name is confusingly similar to the EQUINOR trademark as the Domain Name incorporates the entire trademark. The trademark is recognizable within the Domain Name which not only contains the trademark EQUINOR, but also the word “Bullwinkle” after the hyphen. According to Complainant “Bullwinkle” is a fictional character featured in an animation TV show originating from the United States of America. Complainant doesn’t believe that the additional word “Bullwinkle” prevents the Domain Name from being confusingly similar to Complainant’s registered EQUINOR trademark.

According to Complainant, Respondent has no rights to or legitimate interests in respect of the Domain Name based on Complainant’s prior use of its trademark EQUINOR and company name “Equinor”. Respondent is not affiliated or related to 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. Complainant asserts that 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. Complainant further submits that Respondent is neither using the Domain Name in connection with a *bona fide* offering of goods or services. It can therefore be concluded that Respondent has no rights or legitimate interests in respect of the Domain Name.

Complainant submits that Respondent has intentionally registered and is using the Domain Name in bad faith. It is apparent from the composition of the Domain Name that Respondent chose to register a domain that entails the identical trademark EQUINOR. Respondent was fully aware of the fact that it incorporated a well-recognized and distinctive trademark in which Respondent had absolutely no prior rights.

According to Complainant the Domain Name is being used in bad faith as, on the day of submission of the Complaint, the Domain Name redirects to Complainant’s official website, creating a false impression that Complainant is behind the Domain Name registration. Upon trying to access the website associated with the Domain Name it is easy to believe that an Internet user could get the impression that Complainant is behind the Domain Name registration.

Complainant concludes that Respondent's registration and use of the Domain Name incorporating Complainant's mark indicates that Respondent has intentionally attempted to attract Internet traffic, for commercial gain by creating a likelihood of confusion with Complainant's mark EQUINOR.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the Panel to "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".

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

- (i) the disputed 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 disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Panel will proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied in this proceeding.

A. Identical or Confusingly Similar

Pursuant to paragraph 4(a)(i) of the Policy, Complainant must first of all establish rights in a trademark or service mark and secondly that the Domain Name is identical or confusingly similar to that trademark or service mark.

Complainant has established that it is the owner of a trademark registration for EQUINOR. The Domain Name incorporates the trademark EQUINOR in its entirety, with the addition of the word "Bullwinkle" and a hyphen. Many UDRP panels have found that a disputed domain name is confusingly similar where the relevant trademark is recognizable within the disputed domain name. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). In the view of the Panel the trademark Equinor is clearly recognizable in the Domain Name.

The addition of the term "Bullwinkle" does not prevent a finding of confusing similarity under the first element, and this term will be evaluated further under the third element below.

The gTLD ".com" is disregarded under the first element confusing similarity test. See section 1.11.1 of the [WIPO Overview 3.0](#).

The Panel finds that Complainant has proven that the Domain Name is confusingly similar to Complainant's trademark under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

In the opinion of the Panel, Complainant has made a *prima facie* case that Respondent lacks rights or legitimate interests in the Domain Name. Complainant has not licensed or otherwise permitted Respondent to use its EQUINOR trademark or to register the Domain Name incorporating its trademark. Respondent is not making a legitimate noncommercial or fair use of the Domain Name without intent for commercial gain to misleadingly divert Internet users or to tarnish the trademarks of Complainant.

At the time of the Decision, the Domain Name does not resolve to an active website. Based on the undisputed submission and evidence provided by Complainant, the Domain Name previously redirected to the official website of Complainant. The Panel does not consider such use a *bona fide* offering of goods or services, nor a legitimate noncommercial or fair use of the Domain Name. Respondent is also not commonly known by the Domain Name nor has it acquired any trademark or service mark rights.

No Response to the Complaint was filed and Respondent has not rebutted Complainant's *prima facie* case.

Under these circumstances, the Panel finds that Respondent has no rights or legitimate interests in the Domain Name under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that the Domain Name has been registered and is being used in bad faith. The trademark of Complainant is well known. The Panel notes that Complainant's registration of its trademark predates the registration date of the Domain Name. Respondent knew or should have known that the Domain Name included the entirety of Complainant's EQUINOR trademark. The Panel notes the submission of Complainant that "Bullwinkle" is a fictional character. In addition, a quick Internet search by the Panel found that the term "Bullwinkle" is also used for a 529 meter tall oil platform in the Gulf of Mexico which was installed in 1988; at the time of its construction it was the third tallest freestanding structure ever built in the world. The Panel considers that the addition of the term "Bullwinkle" in reference to a very large oil platform indicates that Respondent is familiar with the field in which Complainant is active.

The Panel notes that the Domain Name at the time of the Decision does not resolve to an active website. This does not prevent the Panel in finding bad faith under the doctrine of passive holding (see section 3.3 of the [WIPO Overview 3.0](#)).

The Panel also notes that Respondent's previous use of the Domain Name which redirected to Complainant's official website indicates that Respondent possibly registered the Domain Name with the intention to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the trademarks of Complainant as to the source, sponsorship, affiliation, or endorsement of its website or location or of a service on its website or location, which constitutes registration and use in bad faith in a similar manner to that provided under paragraph 4(b)(iv) of the Policy.

The Panel finds that Complainant has proven that the Domain Name has been registered and is being used in bad faith and paragraph 4(a)(iii) of the Policy has been 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 Domain Name, <equinor-bullwinkle.com>, be transferred to Complainant.

/Dinant T. L. Oosterbaan/

Dinant T. L. Oosterbaan

Sole Panelist

Date: September 20, 2023