

ADMINISTRATIVE PANEL DECISION

Equinor ASA v. Web Doctor
Case No. D2023-3568

1. The Parties

The Complainant is Equinor ASA, Sweden, represented by Rouse AB (Valea AB trading as Rouse AB), Sweden.

The Respondent is Web Doctor, Nigeria.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 24, 2023. On August 24, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 24, 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 (WhoisSecure) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 24, 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 August 25, 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 September 7, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 27, 2023. The Response was filed with the Center on September 21, 2023. On September 25, 2023, the Complainant submitted by email to the Center an unsolicited supplemental filing. The Respondent filed additional arguments on the same day.

The Center appointed Angelica Lodigiani as the sole panelist in this matter on October 4, 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 energy company incorporated in 1972 under the name Statoil ASA. In 2018, the Complainant changed its name to Equinor ASA to reflect the fact that its business was no longer limited to the oil and gas sectors, but also referred to renewable energy.

The Complainant owns numerous worldwide registrations for the trademark EQUINOR, including the following:

- EQUINOR, European Union trademark registration No. 017900772, filed on May 15, 2018, and registered on January 17, 2019, for goods and services in classes 1, 2, 4, 6, 7, 9, 16, 17, 19, 25, 28, 35, 36, 37, 39, 40, 41 and 42;
- EQUINOR, International registration No. 1444675 registered on July 4, 2018, for goods and services in classes 1, 2, 4, 6, 7, 9, 16, 17, 19, 25, 28, 35, 36, 37, 39, 40, 41 and 42;
- EQUINOR, US registration No. 6436681 registered on August 3, 2021, for goods and services in classes 1, 2, 4, 6, 7, 9, 16, 17, 19, 25, 28, 35, 36, 37, 39, 40, 41 and 42.

The Complainant is also the owner of more than 100 domain name registrations under various generic Top-Level Domains (gTLDs) and country code Top-Level Domains (ccTLDs) containing the trademark EQUINOR.

The disputed domain name was registered on August 22, 2022, and resolves to a “403 Forbidden” page stating: “Access to this resource on the server is denied!”.

5. Parties’ Contentions

A. Complainant

The Complainant maintains that the disputed domain name is confusingly similar to its trademark EQUINOR as it incorporates it entirely and the addition of the word “real” cannot prevent a finding of confusing similarity.

The Complainant further maintains that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent is not affiliated with, or related to the Complainant in any way. The Complainant never licensed its trademark EQUINOR to the Respondent, nor authorized the Respondent to make use of this trademark within the disputed domain name or in any other manner whatsoever. The Respondent is not using the disputed domain name in connection with a legitimate noncommercial or fair use. The Respondent does not appear to be generally known by the disputed domain name and has not acquired any trademark or service mark rights in that name or mark. Lastly, the Respondent is not using the disputed domain name in connection with a *bona fide* offering of goods or services.

In relation to the registration and use of the disputed domain name in bad faith, the Complainant alleges that the Respondent has intentionally registered and is using the disputed domain name in bad faith. The Respondent was aware of the fact that it incorporated in the disputed domain name a well-known and distinctive trademark in which the Respondent has no prior rights.

The disputed domain name currently resolves to a “403 Forbidden” page. Previous Panels have found that an inactive webpage and a “403 Forbidden” site constitutes passive holding and use in bad faith. The Complainant believes that the Respondent is attempting to increase Internet traffic by including the Complainant’s well-known trademark EQUINOR in the disputed domain name.

In addition, the Respondent has set up Mail exchanges (“MX records”) for the disputed domain name. As such, upon receiving an email containing the disputed domain name one can erroneously believe that this email originates from the Complainant. The addition of the word “real” in the disputed domain name can confuse Internet users and lead them to believe that the disputed domain name servers function as an authenticator to verify the Complainant. Accordingly, in the Complainant’s view, the Respondent has intentionally attempted to attract Internet traffic, for commercial gain, by creating a likelihood of confusion with the Complainant’s trademark EQUINOR. Furthermore, the Complainant indicates that the Registrant has not provided a real name at the time of the registration of the disputed domain name, and this is a further indication of bad faith.

B. Respondent

As mentioned above, the Respondent filed a Response, within the deadline set by the Center, on September 21, 2023. Subsequently, on September 25, 2023, also within the said deadline, the Respondent filed additional considerations.

In his Response of September 21, 2023, the Respondent discloses his real name that differs from the name provided at the time of the registration of the disputed domain name. The Respondent indicates that when he registered the disputed domain name he was unaware of a company named “equinor” and that the disputed domain name was available for registration on a registrar’s webpage. The Respondent also offers to sell the disputed domain name to the Complainant for “\$5000”. According to the Respondent, this amount is justified by the fact that the disputed domain name would be a valuable asset to the Complainant as it is short, memorable and easy to pronounce. Moreover, the “.com” gTLD, which is the extension of the disputed domain name, is the most popular and trusted domain name extension. The Respondent maintains that he has been the owner of the disputed domain name for some years; as such, he was able to understand its potential. Thus, the requested price is fair. Nonetheless, the Respondent is open to negotiations if so requested. Lastly, the Respondent provides his telephone number for any further discussion on the sales process of the disputed domain name.

In his additional considerations, the Respondent contends that the disputed domain name was legally registered and was not obtained through illegal means or with criminal intent. The Respondent states that he intended to use the disputed domain name for a business different from that of the Complainant. The Respondent further maintains that he offered to sell the disputed domain name to the Complainant because the Complainant needed it, and that the requested price aims at covering the Respondent’s loss for the transfer of the disputed domain name. The Respondent also admits that the disputed domain had not been in existence for some years but only for some weeks and that writing “years” instead than “weeks” was the result of a typographical error. The Respondent indicates that he has the right to choose the domain name he likes, provided he is acting legally. As the disputed domain name was available on the Registrar’s website, its registration is legal.

6. Discussion and Findings

6.1. Preliminary Procedural Issue – Supplemental Filing

As mentioned above under Procedural History, the Complainant made an unsolicited supplemental filing in reply to the Response. Paragraph 10 of the Rules vests the panel with the authority to determine the admissibility, relevance, materiality and weight of the evidence, and to conduct the proceedings with due expedition. Unsolicited supplemental filings are generally discouraged, unless specifically requested by the panel (see section 4.6 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”). In general, panels are inclined to accept unsolicited supplemental filings when some exceptional circumstances have occurred that do not allow the party submitting the unsolicited supplemental filing to include its belated arguments in the complaint or response. In the instant case, as the Respondent offered to sell the disputed domain name to the Complainant for the first time with his Response, the Complainant’s additional statements in this regard could not have been included in the

Complaint. However, in the Panel's view, in order to accept the Complainant's supplemental filing, the same should include arguments of such a nature to affect the outcome of the dispute. The Panel has reviewed the contents of the supplemental filing and, for the reasons mentioned below, does not believe that they can have an impact on the Panel's decision.

Hence, the Panel does not admit the Complainant's supplemental filing.

6.2. Substantive Elements

A. Identical or Confusingly Similar

The Panel finds that the Complainant has duly substantiated its earlier rights over the trademark EQUINOR. The disputed domain name consists of the Complainant's trademark preceded by the word "real". The trademark EQUINOR is clearly recognizable within the disputed domain name. Where a domain name incorporates the entirety of a trademark, it will normally be considered confusingly similar to that mark for purposes of UDRP standing (see section 1.7 of the [WIPO Overview 3.0](#)). Moreover, the addition of other terms would not prevent a finding of confusing similarity under the first element of the Policy, where the relevant mark is recognizable within the disputed domain name (see section 1.8 of the [WIPO Overview 3.0](#)).

In light of the above, the Panel finds that the Complainant has duly proved that the disputed domain name is confusingly similar to the Complainant's EQUINOR mark and therefore considers that the first condition under the Policy is met.

B. Rights or Legitimate Interests

While the overall burden of proof rests with the complainant, UDRP panels have recognized that this could result in the often impossible task of proving a negative, requiring information that is often primarily within the knowledge 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 shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

In the instant case, the Panel notes that the Complainant has no relation with the Respondent and that the Complainant did not authorize the Respondent to incorporate its EQUINOR trademark in the disputed domain name. The Respondent is not a licensee of the Complainant and does not appear to be commonly known by the disputed domain name.

The Panel considers that through the disputed domain name the Respondent is trying to impersonate the Complainant or at least is suggesting sponsorship or endorsement by the Complainant. The disputed domain name reproduces the Complainant's trademark entirely. Moreover, in the disputed domain name, the EQUINOR mark follows the word "real", which suggests that the disputed domain name is indeed the "original" one, the one linked to the Complainant, hence, the "real one". Previous panels have found that where a domain name consists of a trademark plus an additional term, such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner.

The disputed domain name resolves to a "403 Forbidden" page stating: "Access to this resource on the server is denied!" The HTTP error 403 means that access to the file or folder one is trying to open has been denied, on purpose or due to a misconfiguration. The "403 Forbidden" error can also occur for security reasons. Accordingly, either the Respondent is using the disputed domain name for some concealed purpose or he is holding the disputed domain name passively or there is a security threat. Regardless of which is the case, this use cannot amount to a *bona fide* offering of goods or services or to a legitimate noncommercial or fair use of the disputed domain name.

In view of the above, the Panel finds that the Complainant has discharged its burden of proof that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The burden of production now shifts to the Respondent to demonstrate that he owns rights or legitimate interests in the disputed domain name.

The Respondent has argued that he acquired the disputed domain name legitimately as it was available through the Registrar. He further submits that one has the right to register whichever domain name he likes, provided there is no illegal activity. The Respondent says he acted legally in this case, as the disputed domain name was freely registrable and the Respondent chose it because it is short, memorable and easy to pronounce. The Respondent also indicates that he intended to use the disputed domain name for a business different from that of the Complainant but does not provide any further indication about this business, nor evidence in support.

The Panel finds that the Respondent's arguments are unconvincing and insufficient to support any rights or legitimate interests in the disputed domain name. The fact that a domain name is available does not automatically confer to its owner rights or legitimate interests on it, especially if this domain name incorporates a third party distinctive trademark as is the case here. Moreover, as mentioned above, the disputed domain name is not used in connection with a *bona fide* offering of goods or services or a legitimate noncommercial or fair use.

Accordingly, the Panel finds that the Respondent has failed to demonstrate that he owns rights or legitimate interests in the disputed domain name and considers that the Complainant has successfully established the second condition under the Policy.

C. Registered and Used in Bad Faith

As far as bad faith is concerned, the Panel finds that the Complainant's trademark is distinctive as it consists of an invented word, deprived of any meaning. Furthermore, in view of the fact that the Complainant is a Norwegian state company operating internationally in the energy field under the EQUINOR trademark, the Panel is inclined to believe that this trademark enjoys reputation. Noting in particular the general powers of a panel articulated *inter alia* in paragraphs 10 and 12 of the UDRP Rules, the Panel has conducted some limited searches on the Internet and ascertained that all the entries referring to "equinor" relate to the Complainant. In light of this, and despite the Respondent's contrary statement that he was unaware of a company named "equinor", the Panel finds it difficult to believe that the Respondent registered the disputed domain name by coincidence. Rather, it is much more credible that the Respondent knew, or at least should have known, the Complainant's trademark at the time of the registration of the disputed domain name. Noting registrants' obligations under paragraph 2 of the Policy, the Respondent should have ascertained that by registering the disputed domain name he was not infringing upon or otherwise violating the rights of any third party (see section 3.2.3 of the [WIPO Overview 3.0](#)). Even a cursory Google search would have revealed that all rights on the EQUINOR trademark belong exclusively to the Complainant. The fact that the disputed domain name consists of the Complainant's trademark EQUINOR, preceded by the adjective "real", which further underscores the importance of the mark within the disputed domain name, is additional support that the Respondent was familiar with the EQUINOR mark when it made the registration of the disputed domain name.

At the time of the filing of the Complaint, the disputed domain name led to a "403 Forbidden" page including the statement: "Access to this resource on the server is denied!". As mentioned above, the HTTP error 403 means that access to the file or folder has been denied, on purpose, due to a misconfiguration or for security reasons. It is not clear whether the Respondent is holding the disputed domain name passively or there is some kind of activity behind the disputed domain name to which the Complainant has no access. In either case, this use does not amount to use in good faith. Even assuming that the Respondent is passively holding the disputed domain name, passive holding of a domain name cannot prevent a finding of bad faith. Under the doctrine of passive holding, a panel should look at the totality of the circumstances of the case. In particular, the following circumstances should be considered: (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 section 3.3. of the [WIPO Overview 3.0](#)). In the instant case, the EQUINOR mark is inherently distinctive and enjoys reputation. This trademark appears to be uniquely associated with the Complainant. Therefore, in the absence of rights or legitimate interests, no actual or contemplated good-faith use of the disputed domain name appears possible.

In his Response, the Respondent offered to sell the disputed domain name to the Complainant for a higher price than the likely out-of-pocket costs directly related to the disputed domain name. The Respondent justifies this amount by stating that the disputed domain name is worth value and that the requested amount is to compensate the Respondent's loss of the disputed domain name. However, the Respondent fails to recall that the disputed domain name contains a distinctive and reputed trademark belonging to the Complainant on which the Respondent has no rights or legitimate interests. Therefore, the Respondent has no title to a compensation as he should not have registered or used the disputed domain name.

Furthermore, MX records are set up for the disputed domain name, which would enable the Respondent to send emails under a domain name that is confusingly similar to the Complainant's mark.

All these circumstances lead to the conclusion that the Respondent has registered and is using the disputed domain name to intentionally attempt to attract, for commercial gain, Internet users to the Respondent's website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website. Moreover, the Respondent has also offered to sell the disputed domain name to the Complainant, the Panel finds this further suggests bad faith on the part of the Respondent.

Finally, the Respondent used false contact details when registering the disputed domain name, which further indicates bad faith.

In light of the above, the Panel is satisfied that also the third and last condition under the Policy is met.

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, <realequinor.com> be transferred to the Complainant.

/Angelica Lodigiani/

Angelica Lodigiani

Sole Panelist

Date: October 20, 2023