

ADMINISTRATIVE PANEL DECISION

Equinor ASA v. Weston Markovic
Case No. D2024-1784

1. The Parties

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

The Respondent is Weston Markovic, Netherlands (Kingdom of the).

2. The Domain Name and Registrar

The disputed domain name <statoilazerbaijan.com> (the “Disputed Domain Name”) is registered with Registrar of Domain Names REG.RU LLC (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on April 29, 2024. On April 29, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On May 2, 2024 and May 7, 2024, the Registrar transmitted by email to the Center its verification responses disclosing registrant and contact information for the Disputed Domain Name which differed from the named Respondent (Protection of Private Person) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 7, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant submitted an amendment to the Complaint in English on May 8, 2024.

On May 7, 2024, the Center informed the Parties in Russian and English, that the language of the Registration Agreement for the Disputed Domain Name is Russian. On May 8, 2024, the Complainant requested English to be the language of the proceeding. The Respondent did not submit any comment on the Complainant's submission.

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 in both English and Russian of the Complaint, and the proceedings commenced on May 21, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 10, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 17, 2024.

The Center appointed Pham Nghiem Xuan Bac as the sole panelist in this matter on June 26, 2024. 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 an international energy company with operations in more than 30 countries around the world developing oil, gas, wind, and solar energy. Formerly known as Statoil ASA, the Complainant changed its name to Equinor ASA in 2018.

The Complainant owns several STATOIL trademarks, including but not limited to International Registration No. 1220682, registered on December 5, 2013. Furthermore, the Complainant owns numerous domain names containing the word "statoil" such as <statoil.az>, registered on August 29, 2001, and <statoil-energy.com>, registered on September 13, 2002.

The Disputed Domain Name was registered on April 23, 2024. As of the date of this Decision, the Disputed Domain Name does not resolve to an active website. However, as shown on the Complainant's evidence, the Disputed Domain Name used to resolve to a website impersonating the Complainant by displaying the Complainant's STATOIL trademark and logo (in a slightly different color), the Complainant's company name Equinor, information regarding oil and gas exploration and production business in Azerbaijan, and copying some of the texts from the Complainant's official website at "www.equinor.com".

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 Disputed Domain Name, as follows:

(i) The Disputed Domain Name is identical or confusingly similar to a trademark or service mark, in which the Complainant has rights.

The Complainant contends that the Disputed Domain Name is confusingly similar to its STATOIL trademark, because the STATOIL trademark is included in its entirety, being the most distinctive element in the Disputed Domain Name. The addition of the term "Azerbaijan" does not prevent a finding of confusing similarity.

Further, the Complainant argues that the addition of the generic Top-Level Domain ("gTLD") ".com" is not sufficient to avoid the likelihood of confusion.

(ii) The Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

First, the Complainant contends that the Respondent is not affiliated with/related to it nor licensed/authorized by it in any way to use the STATOIL trademark in connection with a website, a domain name or for any other purpose.

Second, the Complainant argues that the Respondent is not using the Disputed Domain Name in connection with any legitimate noncommercial or fair use without intent for commercial gain, is not generally known by

the Disputed Domain Name and has not acquired trademarks right on this term.

Third, the Complainant further submits that the Respondent is neither using the Disputed Domain Name in connection with a bona fide offering of goods or services.

(iii) The Disputed Domain Name was registered and is being used in bad faith.

Given the identicalness of the Disputed Domain Name and the Complainant's STATOIL trademark and the long use of the STATOIL trademark across the world predate the registration of the Disputed Domain Name, the Complainant finds that the Respondent has registered the Disputed Domain Name in bad faith.

The Complainant asserts that the Disputed Domain Name used to resolve to an active website containing the Complainant's STATOIL trademark and some texts taken from the Complainant's actual website. Thus, it is evident that the Respondent intends to impersonate the Complainant by attempting to have a look-a-like site.

Furthermore, the Complainant submits that there is a risk that fraudulent emails are being distributed from the Disputed Domain Name as the mail exchange ("MX") records are active. In this regard, the Complainant asserts that when Internet users receive an email from the Disputed Domain Name and they check the content of the relevant look-a-like website, they could be convinced that any communication is indeed sent by the Complainant.

Lastly, the Complainant believes that the Respondent might have been aware of the information that the Complainant has sold their shares to Azerbaijan's state oil company prior to registering the Disputed Domain Name. It, thus, further demonstrates that the Respondent has no good faith when registering and using the Disputed Domain Name.

B. Respondent

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

6. Discussion and Findings

The Respondent's Identity

The Panel notes that at the time the Complaint was filed on April 29, 2024, the Respondent was identified as "Protection of Private Person". On May 2, 2024 and May 7, 2024, the Registrar revealed the underlying registrant of the Disputed Domain Name as "Weston Markovic" with detailed contact information. The Center sent an email communication to the Complainant on May 7, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint.

On May 8, 2024, the Complainant sent an email communication amending the underlying registrant and contact information disclosed by the Registrar.

Language of the Proceeding

The language of the Registration Agreement for the Disputed Domain Name is Russian. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that:

- i. Conducting the proceeding in English would promote efficiency and timely resolution as the Complainant and its representative are based in Scandinavia with no knowledge of the Russian language.
- ii. The English language, being the main language for UDRP disputes, is one of the official United Nations languages.
- iii. The use of Russian in this case would entail significant additional costs for the Complainant who already pays for the entire procedure.
- iv. The Disputed Domain Name resolves to a website displaying content in the English language; the Respondent has provided an address in Amsterdam, Netherlands (Kingdom of the), where English is well understood by the Dutch people. Furthermore, the Respondent has registered other domain names containing English words; thus, it is safe to assume that the Respondent understands English.

The Respondent did not make any specific submissions with respect to the language of the proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

A. Identical or Confusingly Similar

It is well accepted that 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 Disputed Domain Name. [WIPO Overview 3.0](#), section 1.7.

The Panel finds that the Complainant has evidenced that it has rights in and to the STATOIL trademark, which was registered in a number of countries. Therefore, the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the Disputed Domain Name. Accordingly, the Disputed Domain Name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of the geographical term "Azerbaijan" may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the Disputed Domain Name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

In addition, the Panel finds, similarly to other UDRP panels, that the addition of the gTLD ".com" to the Disputed Domain Name may be disregarded under the first element confusing similarity test because it is viewed as a standard registration requirement. [WIPO Overview 3.0](#), section 1.11.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

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

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Disputed Domain Name such as those enumerated in the Policy or otherwise.

Paragraph 4(c) of the Policy lists circumstances, in particular but without limitation, which, if found by the Panel to be proved, demonstrate the Respondent’s rights or legitimate interests in the Disputed Domain Name for the purposes of paragraph 4(a)(ii) of the Policy, including:

- “(i) before any notice to you of the dispute, your 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; or
- (ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or
- (iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.”

Regarding paragraph 4(c)(i) of the Policy, the Panel finds, in light of the Complainant’s asserted facts, that no license, permission or authorization in any kind to use the Complainant’s STATOIL trademark has been granted to the Respondent. There is no evidence available that the Respondent holds any registered or unregistered trademark rights in any jurisdiction related to “Statoil”.

Furthermore, the Panel finds that the Disputed Domain Name used to resolve to a website where the Complainant’s STATOIL trademark was displayed, while no statement or disclaimer disclosing accurately and prominently the (lack of) relationship between the Complainant and the Respondent was placed. This unauthorized use of the STATOIL trademark may mislead Internet users into believing in a connection or association between the Respondent and the Complainant, where such connection or association does not exist in reality. In addition, as evidenced by the Complainant, the associated website used to provide some information taken from the Complainant’s official website to impersonate the Complainant by attempting to have a look-a-like site. Therefore, the Panel finds that by using the Disputed Domain Name in such a manner, the Respondent is attempting to ride on the reputation of the STATOIL trademark, and thus, such use does not constitute a bona fide use within paragraph 4(c)(i) of the Policy.

Regarding paragraphs 4(c)(ii) and 4(c)(iii) of the Policy, the Panel finds that there is no evidence that would suggest that the Respondent, as an individual, business, or other organization, has been commonly known by the Disputed Domain Name, or that the Respondent is making a legitimate noncommercial or fair use of the Disputed Domain Name. In fact, the composition of the Disputed Domain Name is inherently misleading as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

In addition, panels have held that the use of a domain name for illegal activity here, claimed impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Based on the foregoing findings, the Panel finds the second element of the Policy has been established.

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, including:

“(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 the 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.”

In the present case, the Panel finds that the Complainant has put forth evidence that the Respondent has registered and used the Disputed Domain Name in bad faith. The Respondent did not reply to the Complainant's contentions and, therefore, did not refute the Complainant's contentions.

The Panel has considered the Complainant's assertions and evidence with regard to the Respondent's bad faith registration and use of the Disputed Domain Name. In this regard, the Panel finds that the Complainant's STATOIL trademark has been registered in many jurisdictions around the world. In addition, the STATOIL trademark has been put in use and gained certain reputation in the sector of oil and fuel energy. The Complainant's registration of the STATOIL trademark predates the registration of the Disputed Domain Name.

The Disputed Domain Name comprises the Complainant's STATOIL trademark in its entirety, adding only the country name “Azerbaijan” at the end. Given the extensive use of the STATOIL trademark for oil and fuel energy by the Complainant, which occurs in many countries, it is very unlikely that the Respondent registered the Disputed Domain Name in a fortuity. Also, in consideration of the use of the Disputed Domain Name, the Panel is of the view that the Respondent obviously knew of the Complainant and its STATOIL trademark when it registered the Disputed Domain Name. The Panel considers the registration of the Disputed Domain Name as an attempt by the Respondent as to take unfair advantage of the Complainant's goodwill and the reputation of the STATOIL trademark.

On the date of this Decision, the Panel accesses the Disputed Domain Name and finds that it resolves to an inactive website. However, it is well proven and evidenced by the Complainant that the website under the Disputed Domain Name used to display and refer to oil and fuel energy bearing the Complainant's STATOIL trademark. In addition to the adoption of the Complainant's STATOIL trademark as a uniquely distinctive part of the Disputed Domain Name, the Respondent used the Complainant's trademark and logo (in a slightly different color) and the Complainant's company name on the website, which falsely represented itself as the Complainant or the Complainant's associated entity.

The Panel takes the view that any Internet users seeking the Complainant's STATOIL goods/services would very likely mistakenly believe that the Respondent is either the Complainant or associated with the

Complainant, while no such connection exists in fact. The Panel, therefore, finds that by using the Disputed Domain Name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of its website on its website, which is indicative of bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

Panels also have held that the use of a domain name for illegal activity here, claimed impersonation/passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Based on the foregoing findings, the Panel finds that the Complainant has established the third element of the Policy.

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 <statoilazerbaijan.com> be transferred to the Complainant.

/Pham Nghiem Xuan Bac/

Pham Nghiem Xuan Bac

Sole Panelist

Date: July 10, 2024