

ADMINISTRATIVE PANEL DECISION

Equinor ASA v. feng gu
Case No. D2023-0182

1. The Parties

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

Respondent is feng gu, Hong Kong, China.

2. The Domain Name and Registrar

The disputed domain name <equinoris.com> (the “Domain Name”) is registered with Gname.com Pte. Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on January 13, 2023. On January 13, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On January 23, 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 and contact information in the Complaint. The Center sent an email communication to Complainant on January 24, 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 in English on January 25, 2023.

On January 24, 2023, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On January 25, 2023, Complainant submitted a request that English be the language of the proceeding. Respondent did not comment on the language of the proceeding.

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 in English and Chinese of the Complaint, and the proceedings commenced on January 30, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 19, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on February 20, 2023.

The Center appointed Kimberley Chen Nobles as the sole panelist in this matter on March 1, 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

Complainant, a Norwegian corporation formerly known as Statoil ASA, is a broad international energy company with operations in over 30 countries, in the oil, gas, wind and solar energy industries. Complainant developed with the emergence of the Norwegian oil and gas industry in the late 1960s and changed its name to Equinor ASA in 2018.

Complainant owns numerous registered trademarks worldwide with the EQUINOR mark, including in China, where Respondent resides, for example:

- Norwegian registered trademark number 298811 for EQUINOR word mark, registered on June 12, 2018;
- Norwegian registered trademark number 298813 for EQUINOR word mark, registered on June 12, 2018;
- Norwegian registered trademark number 298639 for EQUINOR design mark, registered on June 1, 2018;
- Norwegian registered trademark number 298647 for EQUINOR design mark, registered on June 1, 2018; and
- Chinese registered trademark number 32980596 for EQUINOR word mark, registered on August 21, 2019.

In addition, Complainant owns over 100 domain name registrations throughout the world containing the EQUINOR mark, including <equinor.com>.

The Domain Name was registered on January 11, 2023. At the time of the filing of the Complaint, the Domain Name reverted to a webpage that prompted online users to create an account under a banner prominently displaying Complainant's EQUINOR logo and word mark. The webpage also included a "TERMS OF USE POLICY" document with Complainant's trademark mentioned throughout the document. At the time of the Decision, the Domain Name reverts to an error page.

5. Parties' Contentions

A. Complainant

Complainant contends that (i) the Domain Name is identical or confusingly similar to Complainant's trademarks; (ii) Respondent has no rights or legitimate interests in the Domain Name; and (iii) Respondent registered and is using the Domain Name in bad faith.

In particular, Complainant contends that it has trademark registrations for EQUINOR and that Respondent registered and is using the Domain Name with the intention to confuse Internet users looking for well-known Equinor products and services.

Complainant notes that it has no affiliation with Respondent, nor authorized Respondent to register or use a domain name, which includes Complainant's trademark and that Respondent has no rights or legitimate interests in the registration and use of the Domain Name. Complainant further contends that Respondent is using the Domain Name as a tool to exploit Complainant's reputation for its own commercial gain, and that Respondent has no rights or legitimate interests in the registration and use of the Domain Name other than trademark infringement. Further, Complainant contends that Respondent has acted in bad faith in acquiring

and setting up the Domain Name, when Respondent clearly knew of Complainant's rights.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

6.1. Preliminary Issue: Language of the Proceeding

The Rules, in paragraph 11(a), provide that unless otherwise agreed by the parties or specified otherwise in the registration agreement between the respondent and the registrar in relation to the disputed domain name, the language of the proceeding shall be the language of the registration agreement, subject to the authority of the panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

According to the information received from the Registrar, the language of the Registration Agreement for the Domain Name is Chinese.

Complainant submitted its original Complaint in English. In its email dated January 25, 2023, Complainant submitted a request that the language of the proceeding should be English. Complainant contends that it has no knowledge of the Chinese language and will not be able to understand a Chinese proceeding without external assistance. Complainant also contends that the proceeding in Chinese would cause undue delay, considerable expense, unfair disadvantage and burden Complainant as well as the dispensation of the current matter. Complainant notes that the Domain Name contains the English verb "to be" in the third person singular (that is, referring to "is" in <equinoris.com>), indicating that Respondent knows the conjugation of one of the most common verbs in the English Language. Complainant contends that while Respondent's English may be limited, it is more likely than not, that it outweighs Complainant's knowledge in Chinese, which is non-existent.

Respondent did not comment on the language of the proceeding.

In exercising its discretion to use a language other than that of the Registration Agreement for the Domain Name, 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.

The Panel accepts Complainant's submissions regarding the language of the proceeding. The Panel notes that the Domain Name is composed of Complainant's trademark plus an English term "is", and the Center notified the Parties in Chinese and English of the language of the proceeding as well as notified Respondent in Chinese and English of commencement of the proceeding, and indicated that Respondent may file a Response in either Chinese or English. Respondent chose not to comment on the language of the proceeding nor did Respondent choose to file a Response.

The Panel is also mindful of the need to ensure that the proceeding is conducted in a timely and cost-effective manner. Complainant may be unduly disadvantaged by having to translate the Complaint into Chinese and to conduct the proceeding in Chinese while conducting the proceeding in English would not cause unfairness to either Party in this case.

Having considered all the circumstances of this case, the Panel determines that English be the language of the proceeding.

6.2. Substantive Issues

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name was registered and is being used in bad faith.

Section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) states that failure to respond to the complainant’s contentions would not by itself mean that the complainant is deemed to have prevailed; a respondent’s default is not necessarily an admission that the complainant’s claims are true.

Thus, although in this case Respondent has failed to respond to the Complaint, the burden remains with Complainant to establish the three elements of paragraph 4(a) of the Policy by a preponderance of the evidence.

A. Identical or Confusingly Similar

Ownership of a trademark registration is generally sufficient evidence that a complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. See [WIPO Overview 3.0](#), section 1.2.1. Complainant has provided evidence of its rights in the EQUINOR trademarks, as noted above under section 4. Complainant has also submitted evidence, which supports that the EQUINOR trademarks are widely known and a distinctive identifier of Complainant’s products and services. Complainant has therefore proven that it has the requisite rights in the EQUINOR trademarks.

With Complainant’s rights in the EQUINOR trademarks established, the remaining question under the first element of the Policy is whether the Domain Name, typically disregarding the Top-Level Domain (“TLD”) in which it is registered (in this case “.com”), is identical or confusingly similar to Complainant’s trademark. See, e.g., *B & H Foto & Electronics Corp. v. Domains by Proxy, Inc. / Joseph Gross*, WIPO Case No. [D2010-0842](#).

Here, the Domain Name is confusingly similar to Complainant’s EQUINOR trademarks. These EQUINOR trademarks are recognizable in the Domain Name. In particular, the Domain Name’s inclusion of Complainant’s trademark EQUINOR in its entirety, with an addition of the term “is” does not prevent a finding of confusing similarity between the Domain Name and the EQUINOR trademarks. See [WIPO Overview 3.0](#), section 1.8.

Thus, the Panel finds that Complainant has satisfied the first element of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant must make 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 relevant evidence showing rights or legitimate interests, the complainant will have sustained its burden under the second element of the UDRP.

From the record in this case, it is evident that Respondent was, and is, aware of Complainant and its EQUINOR trademarks, and does not have any rights or legitimate interests in the Domain Name. Respondent is not known to be associated with the EQUINOR trademarks and there is no evidence showing

that Respondent has been commonly known by the Domain Name.

In addition, Respondent has not used the Domain Name in connection with a *bona fide* offering of goods or services or a legitimate noncommercial or fair use. Rather, at the time of the filing of the Complaint, the Domain Name resolved to a webpage that prompted online users to create an account under a banner prominently displaying Complainant's EQUINOR logo and word mark. The webpage also included a "TERMS OF USE POLICY" document with Complainant's trademark mentioned throughout the document. At the time of the Decision, the Domain Name reverts to an error page. Such use does not constitute a *bona fide* offering of goods or services or a legitimate noncommercial or fair use and cannot under the circumstances confer on Respondent any rights or legitimate interests in the Domain Name. See, e.g., *Intesa Sanpaolo S.p.A. v. Charles Duke / Oneandone Private Registration*, WIPO Case No. [D2013-0875](#).

Accordingly, Complainant has provided evidence supporting its *prima facie* claim that Respondent lacks any rights or legitimate interests in the Domain Name. Respondent has failed to produce countervailing evidence of any rights or legitimate interests in the Domain Name. Thus, the Panel concludes that Respondent does not have any rights or legitimate interests in the Domain Name and Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that Respondent's actions indicate that Respondent registered and is using the Domain Name in bad faith.

Paragraph 4(b) of the Policy provides a non-exhaustive list of circumstances indicating bad faith registration and use on the part of a domain name registrant, namely:

"(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 web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location."

The Panel finds that Complainant has provided ample evidence to show that registration and use of the EQUINOR trademarks predate the registration of the Domain Name. Complainant is also well established and known. Indeed, the record shows that Complainant's EQUINOR trademarks and related products and services are widely known and recognized. In addition, the website at the Domain Name has used the Complainant's EQUINOR logo and word mark. Therefore, Respondent was aware of the EQUINOR trademarks when he registered the Domain Name, or knew that the Domain Name is confusingly similar to Complainant's trademarks. See [WIPO Overview 3.0](#), section 3.2.2; See also *TTT Moneycorp Limited v. Privacy Gods / Privacy Gods Limited*, WIPO Case No. [D2016-1973](#).

The Panel therefore finds that Respondent's awareness of Complainant's trademark rights at the time of registration suggests bad faith. See *Red Bull GmbH v. Credit du Léman SA, Jean-Denis Deletraz*, WIPO

Case No. [D2011-2209](#); *Nintendo of America Inc v. Marco Beijen, Beijen Consulting, Pokemon Fan Clubs Org., and Pokemon Fans Unite*, WIPO Case No. [D2001-1070](#); and *BellSouth Intellectual Property Corporation v. Serena, Axel*, WIPO Case No. [D2006-0007](#).

Further, the registration of the Domain Name incorporating Complainant's EQUINOR trademark in its entirety suggests Respondent's actual knowledge of Complainant's rights in the EQUINOR trademarks at the time of registration of the Domain Name and his effort to opportunistically capitalize on the registration and use of the Domain Name.

In addition, the evidence provided by Complainant has shown that at the time of the filing of the Complaint, the Domain Name reverted to a webpage that prompted online users to create an account under a banner prominently displaying Complainant's EQUINOR logo and word mark. The webpage also included a "TERMS OF USE POLICY" document with Complainant's trademark mentioned throughout the document. Respondent's website includes unauthorized reproduction of Complainant's EQUINOR marks, and attempts to imitate Complainant, which could mislead Internet users into thinking that the respective website has been authorized or operated by or affiliated with Complainant, all of which have not been rebutted by Respondent. Such use cannot be considered in good faith.

Moreover, Respondent registered and is using the Domain Name to confuse and mislead consumers looking for well-known Equinor products and services of Complainant or authorized partners of Complainant. The use of the EQUINOR mark as the dominant part of the Domain Name is intended to capture Internet traffic from Internet users who are looking for Complainant's products and services. Therefore, by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's webpage by creating a likelihood of confusion with Complainant's EQUINOR marks as to the source, sponsorship, affiliation, or endorsement of Respondent's website.

At the time of the Decision, the Domain Name reverts to an error page. The Panel notes the failure of Respondent to submit a Response or to provide any evidence of actual or contemplated good faith use, and the implausibility of any good faith use to which the Domain Name may be put. Therefore, the current non-use of the Domain Name does not change the Panel's finding of Respondent's bad faith.

Accordingly, the Panel finds that Respondent registered and is using the Domain Name in bad faith and Complainant succeeds under the third element of paragraph 4(a) 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 Domain Name <equinoris.com> be transferred to Complainant.

/Kimberley Chen Nobles/

Kimberley Chen Nobles

Sole Panelist

Date: March 8, 2023