

ADMINISTRATIVE PANEL DECISION

Equinor ASA, v. Randall Attwood, Adam Bukowsky
Case No. D2023-3280

1. The Parties

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

Respondent is Randall Attwood, United States of America, and Adam Bukowsky, Czech Republic (the).

2. The Domain Names and Registrar

The disputed domain names <equinor-offshore.com> and <equinor-petroleum.com> (“the Domain Names”) are both registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 31, 2023. On July 31, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On the same date, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for multiple underlying registrants 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 2, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to either amend the Complaint adding the Registrar-disclosed registrants as the formal Respondents and provide relevant arguments or evidence demonstrating that all the named Respondents are, in fact, the same entity and that all Domain Names are under common control, or indicate which of the two Domain Names will no longer be included in the current Complaint.

The Complainant filed an amendment to the Complaint and a consolidation request on August 8, 2023. On August 9, 2023, the Center sent an email communication to the Parties acknowledging that Complainant had provided at least *prima facie* grounds to warrant accepting the consolidation request, emphasizing, however, the Panel’s final determination of the consolidation request on appointment.

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 11, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 31, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on September 1, 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. 17900772, 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 Names were registered on July 28, 2023. The Domain Names at the time of the decision do not resolve to an active website. Previously the Domain Names redirected to Complainant's official website.

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

5. Preliminary Procedural Issue: Consolidation of Complaint against two Respondents

This case concerns a Complaint against two Respondents. Complainant requests that the Complaint involving the Domain Names against the two Respondents be consolidated. The preliminary issue is therefore whether Complainant is entitled to bring a consolidated Complaint against the two Respondents, or whether it is necessary for Complainant to bring individual Complaints.

According to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2, consolidation is in order in situations in which the domain names are subject to common control and the consolidation would be fair and equitable and procedurally efficient to all parties.

The Panel notes in this respect the following. Both Domain Names have been registered with the same Registrar on the same day using the same privacy service; in addition the name servers and the IP-location are identical. Both Domain Names are a combination of the EQUINOR trademark and a descriptive term applicable to the industry of Complainant. Currently the Domain Names do not resolve to active websites. Previously the content of both websites associated with the Domain Names was identical as the Domain Names redirected to the official website of Complainant. The Panel thus concludes that on the balance of probabilities it is likely that the Domain Names are under common control.

The two Respondents did not react to Complainant's request for consolidation.

The Panel decides that consolidation is in order, also in view of the fact that it is equitable and procedurally efficient to allow consolidation. In this decision the two Respondents are referred to as "Respondent".

6. Parties' Contentions

A. Complainant

Complainant submits that the Domain Names are confusingly similar to Complainant's registered EQUINOR trademark as the Domain Names incorporate the entire trademark. The trademark is recognizable within the Domain Names which not only contain the trademark EQUINOR, but also the words "offshore" and "petroleum". According to Complainant, Respondent has chosen these words which are common in Complainant's business.

According to Complainant, Respondent has no rights to or legitimate interests in respect of the Domain Names based on Complainant's prior use of its trademark EQUINOR and company name Equinor ASA. 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 Names in connection with any legitimate noncommercial or fair use without intent for commercial gain, is not generally known by the Domain Names 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 Names in connection with a *bona fide* offering of goods or services. It can therefore be concluded that the Respondent has no rights or legitimate interests in respect of the Domain Names.

Complainant submits that Respondent has intentionally registered and is using the Domain Names in bad faith. It is apparent from the composition of the Domain Names that Respondent chose to register a domain name that uses 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 Names are being used in bad faith as, on the day of submission of the complaint, the Domain Names redirected to Complainant's official website, creating a false impression that Complainant is behind the domain name registration.

In addition, Complainant submits that MX-records have been activated for the Domain Names. The Domain Names can thus be used to potentially send out phishing emails to harm Complainant. Complainant believes that there is an imminent risk of confusion for Internet users if such emails were to be sent and that a recipient was to believe that such emails in fact had been sent by Complainant given Respondent's use of the Domain Names.

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

B. Respondent

Respondent did not reply to Complainant's contentions.

7. 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

Complainant has established that it is the owner of trademark registrations for EQUINOR. The Domain Names incorporate the trademark EQUINOR in its entirety, with the addition of the words “offshore” and “petroleum”. 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 3.0](#). In the view of the Panel the trademark EQUINOR is clearly recognizable in the Domain Names. The use of the words “offshore” and “petroleum”, may be disregarded. See section 1.8 of the [WIPO Overview 3.0](#).

The generic Top Level Domain (“gTLD”) “.com” is disregarded under the first element confusing similarity test. See section 1.11 of the [WIPO Overview 3.0](#).

The Panel finds that Complainant has proven that the Domain Names are 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 Names. Complainant has not licensed or otherwise permitted Respondent to use its EQUINOR trademark or to register the Domain Names incorporating its trademark. Respondent is not making a legitimate noncommercial or fair use of the Domain Names 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 Names do not resolve to an active website. Based on the undisputed submission and evidence provided by Complainant, the Domain Names 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 Names. Respondent is also not commonly known by the Domain Names nor has it acquired any trademark or service mark rights compromised by the “EQUINOR” expression.

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 Names under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that the Domain Names have been registered and are 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 Names. Respondent knew or should have known that the Domain Names included the entirety of Complainant’s EQUINOR trademark. The Panel notes that the addition of the words “offshore” and “petroleum” indicates that Respondent is familiar with the field in which Complainant is active.

The Panel notes that the Domain Names, at the time of the decision, do 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 finally notes the undisputed submission of Complainant that Respondent has configured MX records for the Domain Names, suggesting an intention to use the Domain Names for illegal purposes. The record in this case contains no evidence of illegal behavior, but the configuration of MX records presents the potential for an email phishing scheme impersonating Complainant.

The Panel finds that Complainant has proven that the Domain Names have been registered and are being used in bad faith and paragraph 4(a)(iii) of the Policy has been satisfied.

8. 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 Names, <equinor-offshore.com> and <equinor-petroleum.com>, be transferred to Complainant.

/Dinant T. L. Oosterbaan/

Dinant T. L. Oosterbaan

Sole Panelist

Date: September 13, 2023