

ADMINISTRATIVE PANEL DECISION

Equinor ASA v. Duane behrens, Green high Group

Case No. D2023-5277

1. The Parties

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

The Respondent is Duane behrens, Green high Group, United States of America.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 19, 2023. On December 20, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same date, 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 (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 28, 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 the same date.

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 January 4, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 24, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 26, 2024.

The Center appointed José Pio Tamassia Santos as the sole panelist in this matter on February 20, 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 a Norwegian corporation, formerly known as Statoil ASA. The Complainant is a broad international energy company with operations in more than 30 countries around the world developing oil, gas, wind, and solar energy.

The Complainant has grown along with the emergence of the Norwegian oil and gas industry dating back to the late 1960s. It was founded as The Norwegian State Oil Company (Statoil) in 1972 and the Norwegian State holds 67% of the shares. By virtue of the Complainant’s long use and the renown of the Statoil name, the reputation associated with the STATOIL trademark is excellent by virtue of the quality of the Complainant’s goods and services and the mark is undisputedly considered a well-known trademark within its field of business.

The Complainant decided to change their name to Equinor in 2018. The name change was announced on March 15, 2018, and the news were shared and commented worldwide on different media platforms.

The Complainant states that behind the name change stands the development in the energy sector, the shifting focus from oil and gas to renewable energy sources such as wind and solar power. This is explained on the Complainant’s website at “www.equinor.com”.

In this scenario the Complainant’s EQUINOR mark inherited the famous status of the STATOIL mark and became known to everyone who knew Statoil before due to the widely published name change.

In parallel to the official name change an adequate IP portfolio has been created. The Complainant trademark applications have been filed worldwide as shown in complaint’s attachments.

Furthermore, the 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. Below are some examples of the trademark registrations owned by the Complainant or its subsidiaries:

Jurisdiction	Trademark	Registration Date	Registration No.
Brazil	EQUINOR	June 4, 2019	915241935
China	EQUINOR (figurative)	June 14, 2019	33207710
European Union	EQUINOR	January 18, 2019	017900772

At the time of this Decision and at the time of filing of the Complaint, the disputed domain name resolves to a website displaying pay-per-click (“PPC”) links. The links displayed are “Clothes Invoice”, “Buy shoes online” and “Sales clothes”. The Complainant has provided evidence showing that the disputed domain name was used to send an email impersonating a Complainant’s staff member and related to payment information.

Finally, the disputed domain name was registered on December 13, 2023.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to its EQUINOR mark, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the Respondent registered and is using the disputed domain name in bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

The Complainant also contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

For this Complaint to succeed in relation to the disputed domain names the Complainant must prove that:

- (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.

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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

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 disputed domain name consists of a misspelling of the Complainant's trademark, where the "i" from EQUINOR has been moved after the letters "no". Accordingly, the disputed domain name is confusingly similar to the Complainant's trademark EQUINOR. [WIPO Overview 3.0](#), section 1.9.

The gTLD ".com" does not prevent the finding of confusing similarity. As stated in section 1.11.1 of the [WIPO Overview 3.0](#), "[t]he applicable Top Level Domain ('TLD') in a domain name (e.g., '.com', '.club', and '.nyc') is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test."

Accordingly, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights, and 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.

The Respondent is not affiliated or related to the 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. The Respondent is not using the domain name in connection with any legitimate noncommercial or fair use without intent for commercial gain, is not commonly known by the disputed domain name, and has not acquired any trademark or service mark rights in that name. Nor is the Respondent using the disputed domain name in connection with a bona fide offering of goods or services.

Panels have held that the use of a domain name for illegal activity can never confer rights or legitimate interests upon a respondent and in this instance, the disputed domain name was used to send an email (on the day of registration of the disputed domain name) impersonating a Complainant’s staff member in relation to payment information. [WIPO Overview 3.0](#), section 2.13.1.

In the circumstances, the Panel finds that the Respondent does not have any rights or legitimate interests in respect of the disputed domain name and 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.

In the present case, the Panel notes that the Respondent has intentionally registered and is using the disputed domain name in bad faith. It is apparent from the composition of the disputed domain name that the Respondent chose to register a name that is confusingly similar to the Complainant’s trademark EQUINOR. The Respondent was fully aware of the Complainant’s rights.

Moreover, the registration of the disputed domain name took place more than 5 years after the announced name change of the Complainant in March 2018. Accordingly, the Panel finds that the Respondent has registered the disputed domain name in bad faith.

The website to which the disputed domain name resolves is currently displaying PPC links. The links displayed are “Clothes Invoice”, “Buy shoes online” and “Sales clothes”, likely generating revenue for the Respondent. Given the typosquatting nature of the disputed domain name and the distinctiveness of the EQUINOR trademark, Internet users would likely believe any website to which the disputed domain name resolves would be in connection with the Complainant. Further, the inherently misleading nature the disputed domain name is likely to make Internet users believe any emails sent from the disputed domain name (as was done in this proceeding) were from the Complainant. Consequently, the Respondent likely intends to benefit from the confusion created.

The MX-records have been activated for the disputed domain name. A phishing email has been sent from “[...]@equinoir.com” impersonating an actual staff member of the Complainant. The Respondent has sent a phishing email in connection to payment information and payment date. The Panel therefore finds that the disputed domain name has been used in bad faith.

The Respondent’s registration and use of the disputed domain name, incorporating the typosquatting version of the Complainant’s mark, indicates that the Respondent has intentionally attempted to attract Internet traffic, for commercial gain by creating a likelihood of confusion with the Complainant’s mark EQUINOR.

Further the Panel notes that the Respondent’s contact information was not publicly available at the time of filing the Complaint and were instead masked through the apparent use of a privacy service. The use of a privacy or proxy service which is known to block or intentionally delay disclosure of the identity of the actual registrant is often considered as an indication of bad faith ([WIPO Overview 3.0](#), section 3.6).

Accordingly, 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 <equinoir.com> be transferred to the Complainant.

/José Pio Tamassia Santos/

José Pio Tamassia Santos

Sole Panelist

Date: February 29, 2024