

ADMINISTRATIVE PANEL DECISION

Equinor ASA v. Rasel Leven
Case No. D2022-0259

1. The Parties

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

The Respondent is Rasel Leven, Lithuania.

2. The Domain Name and Registrar

The disputed domain name <equinor.pro> is registered with NETIM SARL (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 26, 2022. On January 26, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 4, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on February 4, 2022, 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 February 8, 2022. The Respondent submitted to the Center informal communications on February 7 and February 9, 2022. The Center sent to the Parties a Possible Settlement communication on March 3, 2022, the Complainant rejected a suspension of the procedure on March 4, 2022.

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 February 15, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 7, 2022. The Center proceeded to Panel Appointment on March 18, 2022.

The Center appointed Reyes Campello Estebaranz as the sole panelist in this matter on March 23, 2022. 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 based in Norway with operations in more than 30 countries around the world developing oil, gas, wind and solar energy. It was founded as The Norwegian State Oil Company (known as “Statoil”) in 1972, and changed its 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 owns a number of trademark registrations for the EQUINOR mark around the world, including:

- International Trademark Registration No. 1444675, EQUINOR, registered on July 4, 2018, in Classes 1, 2, 4, 6, 7, 9, 16, 17, 19, 25, 28, 35, 36, 37, 39, 40, 41, and 42; and
- European Union Trade Mark Registration No. 017900772, EQUINOR, registered on January 18, 2019, in Classes 1, 2, 4, 6, 7, 9, 16, 17, 19, 25, 28, 35, 36, 37, 39, 40, 41, and 42, (collectively the “EQUINOR mark”).

Prior decisions under the Policy have recognized the international reputation of the EQUINOR mark in the field of energy.¹

The Complainant owns more than 100 domain names comprising its EQUINOR mark, and operates on the Internet at several websites, the main one being “www.equinor.com”.

The disputed domain name was registered on March 15, 2018, and it resolves to a parked page including an “under construction” message. According to the evidence provided by the Complainant, the disputed domain name has been used in connection to a website dedicated to wind energy, which displayed a photograph of various windmills, and the phrase “original projects” underneath the disputed domain name in capitals.

5. Parties’ Contentions

A. Complainant

Key contentions of the Complaint may be summarized as follows:

The disputed domain name is comprised exclusively of the Complainant’s trademark EQUINOR mark. The new generic Top-Level-Domain (“gTLD”) “.pro” is a standard registration requirement, and as such is disregarded under the confusing similarity test. Additionally, the gTLD “.pro”, being meant for use by professionals, may give the idea that the disputed domain name and any corresponding website belongs to or is authorized by the Complainant, offering services/information for professionals in the energy sector.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is not affiliated or related to the Complainant, or licensed or otherwise authorized to use the EQUINOR mark, is not generally known by the disputed domain name and has not acquired any trademark

¹ See, among others, *Equinor ASA v. WhoisGuard Protected, WhoisGuard, Inc. / Jenc Mazc*, WIPO Case No. D2021-0084; *Equinor ASA v. WhoisGuard Protected, WhoisGuard, Inc. / Jenc Mazc*, WIPO Case No. D2021-0203; *Equinor ASA v. Domain Administrator, See PrivacyGuardian.org / Daniel Klog*, WIPO Case No. D2020-1970; and *Equinor ASA v. Daniel Klog*, WIPO Case No. D2018-2441.

rights in the name “equinor”. Furthermore, the Respondent is not using the disputed domain name in connection with any legitimate noncommercial or fair use without intent for commercial gain.

The disputed domain name was registered and is being used in bad faith. Due to the reputation of the EQUINOR mark in the energy field, the Respondent knew or should have known about this trademark, and could not have chosen or subsequently used the disputed domain name for any reasons other than to take unfair advantage of this reputation. This is confirmed by the fact that the disputed domain name resolved to a website dedicated to wind energy (one of the Complainant’s business fields), which promotes “original projects” and “wind energy” but do not provide detailed information about these projects. Internet users would most likely believe that this page is sponsored or endorsed by the Complainant. Furthermore, the disputed domain was registered on March 15, 2018, which is the exact day when the Complainant’s name change was announced. The Respondent has intentionally attempted to attract, for commercial gain, Internet users to his website by creating a likelihood of confusion with the EQUINOR mark, and there is a high risk that fraudulent emails being distributed from the disputed domain name. The use of a privacy or proxy service to block or intentionally delay disclosure of the identity of the actual registrant of the disputed domain name is a further indication of bad faith.

The Complainant has cited various sections of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) that it considers supportive of its position, and requests the transfer of the disputed domain name.

B. Respondent

The Respondent sent various email communications to the Center indicating that the disputed domain name had been sold to a company named “SITE.PRO”, although the Whois information had not yet been updated.

Subsequently, the Respondent offered the transfer of the disputed domain name to the Complainant “due to current political situation”, indicating that all the money received (presumably from this transaction) will go to “needy relatives in Ukraine”, and hoping for the Complainant’s understanding and cooperation.

While it may be that the disputed domain name has been sold to a company named “SITE.PRO”, the Panel notes that the Respondent has not provided any evidence in support of such allegation (being unclear when this change of ownership may have happened), and also notes that the Whois was not updated. The Panel further notes that the Registrar confirmed the Respondent as the registrant of the disputed domain name, and that after the Respondent’s first communication stating that the disputed domain name has been sold, the Respondent offered the transfer (which implies he may still have had control over the disputed domain name).

In the circumstances of this case, the Panel finds appropriate to consider Rasel Leven as the Respondent in this proceeding.

6. Discussion and Findings

The Complainant has made the relevant assertions as required by the Policy and the dispute is properly within the scope of the Policy. The Panel has authority to decide the dispute examining the three elements in paragraph 4(a) of the Policy, taking into consideration all of the relevant evidence, annexed material and allegations, and performing some limited independent research under the general powers of the Panel articulated, *inter alia*, in paragraph 10 of the Rules.

A. Identical or Confusingly Similar

The Complainant indisputably has rights in the EQUINOR mark as a result of its trademark registrations, as well as the use and global reputation of this trademark on the energy field.

In cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered identical or confusingly similar to that mark for purposes of the Policy. Furthermore, the applicable gTLD in a domain name is considered a standard technical registration requirement and, as such, is generally disregarded under the first element confusing similarity test. See sections 1.7, and 1.11, [WIPO Overview 3.0](#).

The disputed domain name incorporates the EQUINOR mark in its entirety, and the gTLD “.pro” is a technical requirement, generally disregarded for the purpose of the analysis of the confusing similarity.

Accordingly, the Panel finds that the disputed domain name is identical to the Complainant’s trademark, and the first element of the Policy under paragraph 4(a)(i) has been satisfied.

B. Rights or Legitimate Interests

Although the Complainant bears the ultimate burden of establishing all three elements of paragraph 4(a) of the Policy, UDRP panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of proving a negative, requiring information that is primarily if not exclusively within the respondent’s knowledge. Thus, the consensus view is that paragraph 4(c) of the Policy shifts to the respondent the burden of production to come forward with relevant evidence of rights or legitimate interests in a disputed domain name, once the complainant has made a *prima facie* case that the respondent lacks rights or legitimate interests.

The Complainant’s above-noted assertions and evidence in this case effectively shift the burden of production to the Respondent of producing evidence of rights or legitimate interests in the disputed domain name, providing the circumstances of paragraph 4(c) of the Policy, without limitation, in order to rebut the Complainant’s *prima facie* case.

The Panel notes that the disputed domain name incorporates in its entirety the EQUINOR mark, being identical to this mark, which generates an implied affiliation (and risk of confusion) with the Complainant and its trademark. The disputed domain name may give the impression that it is associated to the Complainant or any business related company.

The Panel further notes that, according to the evidence provided by the Complainant, the disputed domain name has been used in connection to a website promoting projects and services in the wind energy field, which is one of the industries where the Complainant operates. The Panel finds that the website at the disputed domain name may have given the impression that it is a new line of energy projects or services provided by the Complainant or any business related company.

The Panel further considers that the Complainant has made out a strong *prima facie* case that the Respondent could not have rights or legitimate interests in the disputed domain name, not being authorized to use the EQUINOR mark, and there is no evidence that suggests that the Respondent is commonly known by the disputed domain name. In this respect, the Panel notes that the Respondent’s name has no resemblance with the term “equinor”, and the Respondent has not alleged and not provided any evidence of having applied for or registered any trademark containing this term.

It is further remarkable that the Respondent has not replied to the Complainant’s contentions, not alleging or providing any evidence regarding any rights or legitimate interests in respect of the disputed domain name. On the contrary, the Respondent’s reaction to the Complaint was, initially, to indicate that he was not the owner of the disputed domain name, and, afterwards, to offer its transfer (presumably in exchange for a certain amount of money) to the Complainant.

Under these circumstances, the Panel concludes that the Respondent has not rebutted the Complainant’s *prima facie* case, and nothing in the case file gives reason to believe that the Respondent has or has had

any rights or legitimate interests in respect of the disputed domain name. Therefore, the second element of the Policy under paragraph 4(a)(ii) has been established.

C. Registered and Used in Bad Faith

The Policy, paragraph 4(a)(iii), requires that the Complainant establish that the disputed domain name has been registered and is being used in bad faith.

The applicable standard of proof in UDRP cases is the “balance of probabilities” or “preponderance of the evidence”, being the Panel prepared to draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2, [WIPO Overview 3.0](#).

The Panel notes the international extensive use and presence over the Internet of the EQUINOR mark since the registration of this trademark and company name on March 15, 2018, as well of the diffusion that the launch of this trademark had in the media.

The Panel further notes the international reputation of the EQUINOR mark in the field of energy, as has been recognized by previous decisions under the Policy.²

The Panel considers that all cumulative circumstances of this case point to bad faith registration and use of the disputed domain name:

(i) the disputed domain name incorporates the EQUINOR mark in its entirety, being identical to this trademark;

(ii) the Complainant’s trademark is well known in the energy industry, and the Complainant operates internationally, including in Lithuania, where the Respondent is apparently located according to the Registrar verification. In this respect, the Panel under its general powers articulated, *inter alia*, in paragraph 10 of the Rules, has conducted a search over the Internet finding numerous news about the Complainant’s operations in this jurisdiction, as well as in various countries in the Baltic Sea region³

(iii) according to the evidence provided by the Complainant, the disputed domain name has been used in connection to a website in the field of wind energy, which is one of the fields where the Complainant is well-known;

(iv) the disputed domain name was registered in the exact same day (March 15, 2018) when the Complainant’s name change and new trademark was announced and commented worldwide on different media platforms; and

(v) the Respondent has not offered any explanation of any rights or legitimate interests in the disputed domain name, and has not come forward to deny the Complainant’s assertions of bad faith, offering the transfer of the disputed domain name to the Complainant in exchange for some money.

In light of the above, taking into consideration all cumulative circumstances of this case, on the balance of probabilities, the Panel considers that the disputed domain name was registered and is being used targeting the reputed EQUINOR mark, in bad faith, with the intention of obtaining a free ride on the established reputation of the Complainant and its trademark. The evidence on record and the circumstances of this case show that the Respondent’s purpose was to mislead Internet users, in order to generate traffic to his website with a commercial purpose.

² See footnote number 1, *supra*.

³ The Panel has found numerous publications over the Internet referring to the use by the Complainant of the Lithuanian LNG plant for the distribution of gas to Lithuania and other countries in the Baltic Sea region.

Accordingly, the Panel concludes that the Complainant has met its burden of establishing that the disputed domain name has been registered and is being used in bad faith.

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 <equinor.pro> be transferred to the Complainant.

/Reyes Campello Estebarez/

Reyes Campello Estebarez

Sole Panelist

Date: April 6, 2022