

ADMINISTRATIVE PANEL DECISION

Equinor ASA v. Danielle Torres
Case No. D2022-4889

1. The Parties

The Complainant is Equinor ASA, Norway, represented by Valea AB, Sweden. The Respondent is Danielle Torres, Philippines.

2. The Domain Name and Registrar

The disputed domain name <equinor-ireland.com> is registered with Google LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 20, 2022. On December 20, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 20, 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 (Contact Privacy Inc. Customer 7151571251) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 21, 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 December 23, 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 January 4, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 24, 2023. The Respondent did not submit any response. On December 21, 2022, the Center received a communication by email from an apparent third party. On January 25, 2023, the Center informed the Parties that it would proceed to panel appointment.

The Center appointed William R. Towns as the sole panelist in this matter on January 30, 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

The Complainant is a Norwegian energy corporation founded in the 1960s and formerly known as Statoil ASA. The Complainant since has operated internationally with remarkable success in 30 countries, developing and introducing into the market the Complainant's EQUINOR brand. The Complainant previously was known as STATOIL ASA before undergoing a rebranding to EQUINOR in March 2018, and registering the EQUINOR mark in Norway. See Norwegian trademark reg. no. 298811. See also *Equinor ASA v. Michael Anderson*, WIPO Case No. [D2019-3014](#). The Complainant provides resources for as many as 30 countries around the world, and continues to develop gas, oil, wind, and solar energy.

The disputed domain name was registered on December 19, 2022; it does not resolve to an active website.

5. Parties' Contentions

A. Complainant

The Complainant maintains that the disputed domain name is identical or confusingly similar to the Complainant's EQUINOR mark. The disputed domain name was registered by the Complainant on December 19, 2022. According to the Complainant, the EQUINOR mark incorporates the entirety of the Complainant's trademark, submitting that the Respondent's insertion of the country "Ireland" in the disputed domain name could not conceivably avoid confusion between the disputed domain name and the Complainant's mark. The Complainant avers that the Respondent registered the disputed domain name seeking to take advantage of the Complainant's good reputation.

The Complainant asserts that a side-by-side comparison of the disputed domain name with the relevant EQUINOR mark clearly is recognizable in the disputed domain name. The Complainant further observes that when as here the disputed domain name incorporates the entirety of the EQUINOR trademark, the disputed domain name will be found confusingly similar to the Complainant's mark.

The Complainant submits that the Respondent lacks rights or legitimate interests in respect of the disputed domain name, referring to the Complainant's extensive use of the EQUINOR mark. The Complainant asserts that the Respondent has neither been affiliated with the Complainant or used the disputed domain name for any legitimate noncommercial or other fair use without intent for commercial gain, and further has not been generally known by the disputed domain name. According to the Complainant, the Respondent has neither acquired trademark or service mark rights nor used the disputed domain name in connection with a *bona fide* offering of goods or services.

The Complainant concludes that the disputed domain name has been registered by the Respondent in bad faith and used in bad faith. The Complainant emphasizes that the disputed domain name was registered by the Respondent on December 19, 2022, more than four years after the Complainant had announced the name change to Equinor in March 2018. The Complainant maintains that the Respondent when registering the disputed domain name was fully cognizant that it had appropriated the Complainant's well-known EQUINOR mark and was fully aware of the Complainant's EQUINOR mark when registering the disputed domain name.

B. Respondent

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

As noted above, the Center received an email claiming merely that this was not the correct email address to

associate with said person; it is noted that this individual was replying to a case-related email which used the Registrar-confirmed Respondent email address, and moreover that this individual responded from an email address which was exactly the same as the Registrar-confirmed email address but with an added dot between the two names comprising it.

6. Discussion and Findings

A. Scope of the Policy

The Policy is addressed to resolving disputes concerning allegations of abusive domain name registration and use. *Milwaukee Electric Tool Corporation v. Bay Verte Machinery, Inc. d/b/a The Power Tool Store*, WIPO Case No. [D2002-0774](#). Accordingly, the jurisdiction of this Panel is limited to providing a remedy in cases of “the abusive registration of domain names”, also known as “cybersquatting”. *Weber-Stephen Products Co. v. Armitage Hardware*, WIPO Case No. [D2000-0187](#). See Final Report of the First WIPO Internet Domain Name Process, April 30, 1999, paragraphs 169-177. The term “cybersquatting” is most frequently used to describe the deliberate, bad faith abusive registration of a domain name in violation of rights in trademarks or service marks. *Id.* at paragraph 170. Paragraph 15(a) of the Rules provides that the panel shall decide a complaint on the basis of statements and documents submitted and in accordance with the Policy, the Rules and any other rules or principles of law that the panel deems applicable.

Paragraph 4(a) of the Policy requires that the complainant prove each of the following three elements to obtain a decision that a domain name should be either cancelled or transferred:

- (i) the 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 with respect to the domain name; and
- (iii) the domain name has been registered and is being used in bad faith.

Cancellation or transfer of the domain name is the sole remedy provided to the complainant under the Policy, as set forth in paragraph 4(i).

Paragraph 4(b) of the Policy sets forth four situations under which the registration and use of a domain name is deemed to be in bad faith, but does not limit a finding of bad faith to only these situations.

Paragraph 4(c) of the Policy in turn identifies three means through which a respondent may establish rights or legitimate interests in a domain name. Although the complainant bears the ultimate burden of establishing all three elements of paragraph 4(a) of the Policy, UDRP panels have recognized that this could result in the often impossible task of proving a negative, requiring information that is primarily, if not exclusively, within the knowledge of the respondent. Thus, the view is that the burden of production shifts to the respondent to come forward with evidence of a right or legitimate interest in the domain name, once the complainant has made a *prima facie* showing. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 2.1. See, e.g., *Document Technologies, Inc. v. International Electronic Communications Inc.*, WIPO Case No. [D2000-0270](#).

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B. Identical or Confusingly Similar

The Panel finds that the disputed domain name is confusingly similar to the Complainant’s EQUINOR mark, a distinctive and well-known mark in which the Complainant has established rights through registration and considerable use. In considering identity and confusing similarity, the first element of the Policy serves essentially as a standing requirement.¹ The threshold inquiry under the first element of the Policy involves a relatively straightforward comparison between the complainant’s trademark and the disputed domain name.

The Complainant’s EQUINOR mark is clearly recognizable in the disputed domain name.² The inclusion of the term “Ireland” in the disputed domain name does not in the attendant circumstances dispel the confusing similarity of the disputed domain name to the Complainant’s mark. See, e.g., *LLC v. Temp name Temp Last Name, Temp Organization*, WIPO Case No. [D2019-0109](#). See also *Instagram, LLC v. A S*, WIPO Case No. [D2020-1327](#). When as here the relevant trademark is recognizable in the disputed domain name, the addition of other terms such as “Ireland” (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not preclude a finding of confusing similarity under paragraph 4(a)(i) of the Policy.³ Top Level Domains – TLDs, generally are disregarded when evaluating the identity or confusing similarity of the Complainant’s mark to the disputed domain name under paragraph 4(a)(i) of the Policy, irrespective of any ordinary meaning that might be ascribed to the TLD.⁴

Accordingly, the Panel finds the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

C. Rights or Legitimate Interests

As noted above, once the complainant makes a *prima facie* showing under paragraph 4(a)(ii) of the Policy, paragraph 4(c) shifts the burden of production to the respondent to come forward with evidence of rights or legitimate interests in a domain name. The Panel is persuaded from the record of this case that a *prima facie* showing under paragraph 4(a)(ii) of the Policy has been made. It is undisputed that the Respondent has not been authorized to use the Complainant’s EQUINOR mark. The Respondent notwithstanding registered the disputed domain name, which wholly incorporates the Complainant’s EQUINOR mark. The Respondent is passively holding the disputed domain name.

¹ See [WIPO Overview 3.0](#), section 1.7.

² See [WIPO Overview 3.0](#), section 1.8 and cases cited therein.

³ *Id.*

⁴ See [WIPO Overview 3.0](#), section 1.11.

Pursuant to paragraph 4(c) of the Policy, a respondent may establish rights or legitimate interests in a domain name by demonstrating any of the following:

- (i) before any notice to it of the dispute, the respondent's use of, or demonstrable preparations to use, the domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent has been commonly known by the domain name, even if it has acquired no trademark or service mark rights; or
- (iii) the respondent is 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.

The Respondent, as previously discussed, has not submitted a formal response to the Complaint, in the absence of which the Panel may accept all reasonable inferences and allegations in the Complaint as true. See *Talk City, Inc. v. Michael Robertson*, WIPO Case No. [D2000-0009](#). The Panel has carefully reviewed the record in this case, and finds nothing therein that would bring the Respondent's registration and use of the disputed domain name within any of the "safe harbors" of paragraph 4(c) of the Policy.

The Panel concludes from the record that the Respondent was aware of and had the Complainant's well-known EQUINOR mark plainly in mind when registering the disputed domain name. As previously observed, the Respondent presently appears to be passively holding the disputed domain name and has brought forward no credible evidence of use or demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services. See [WIPO Overview 3.0](#), section 2.2 and cases cited therein.

Nor has the Respondent brought forth any claim to be making a legitimate noncommercial or fair use of the disputed domain name. A respondent's use of a domain name cannot be considered "fair" if it falsely suggests affiliation with the trademark owner, and UDRP panels generally have found that a domain name appropriating a complainant's trademark plus an additional term carries a risk of implied affiliation if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. See [WIPO Overview 3.0](#), sections 2.5 and 2.5.1. The use of a domain name cannot be "fair" if it suggests a non-existent affiliation with the trademark owner; nor can a use be "fair" if it is pretextual. See *201 Folsom Option JV, L.P. and 201 Folsom Acquisition, L.P. v. John Kirkpatrick*, WIPO Case No. [D2014-1359](#); *Project Management Institute v. CMN.com*, WIPO Case No. [D2013-2035](#).

In view of the foregoing, the Panel concludes that the Respondent has neither used nor demonstrated preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services, and that the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name. Further, there is no indication that the Respondent has been commonly known by the disputed domain name within the meaning of paragraph 4(c)(ii) of the Policy.

Accordingly, the Panel finds the Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy.

D. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy states that any of the following circumstances, in particular but without limitation, shall be considered evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant (the owner of the trademark or service mark) or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or

- (ii) circumstances indicating that the respondent 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 the respondent has engaged in a pattern of such conduct; or
- (iii) circumstances indicating that the respondent registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) circumstances indicating that the respondent is using the domain name to intentionally attempt to attract, for commercial gain, Internet users to its 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 the respondent's website or location or of a product or service on its website or location.

The examples of bad faith registration and use set forth in paragraph 4(b) of the Policy are not meant to be exhaustive of all circumstances from which such bad faith may be found. See *Telstra Corporation Limited v. Nuclear Marshmallows*, *supra*. The overriding objective of the Policy is to curb the abusive registration of domain names in circumstances where the registrant seeks to profit from and exploit the trademark of another. See *Match.com, LP v. Bill Zag and NWLAWS.ORG*, WIPO Case No. [D2004-0230](#).

For the reasons discussed under this and the preceding heading, the Panel concludes that the Respondent's conduct in this case constitutes bad faith registration and use of the disputed domain name within the meaning of paragraph 4(a)(iii) of the Policy. The Panel finds that the Respondent was aware of the Complainant and had the Complainant's distinctive EQUINOR mark in mind when registering the disputed domain name. As previously noted, the Panel considers that the Respondent more likely than not registered the disputed domain name seeking to exploit and profit from the Complainant's trademark rights.

That the Respondent is passively holding the disputed domain name does not preclude a finding of bad faith in the attendant circumstances of this case. As set forth in *Telstra Corporation Limited v. Nuclear Marshmallows*, *supra*, "the relevant issue is not whether the Respondent is taking a positive action in bad faith in relation to the domain name, but instead whether, in all the circumstances of the case, it can be said that the Respondent is acting in bad faith. [...] [I]t is possible, in certain circumstances, for inactivity by the Respondent to amount to the domain name being used in bad faith". See *Red Bull GmbH v. Kevin Franke*, WIPO Case No. [D2012-1531](#).

The Panel finds such circumstances to be present in this case, and thus concludes that the Complainant has satisfied the requirements of paragraph 4(a)(iii) 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 <equinor-ireland.com> be transferred to the Complainant.

/William R. Towns/

William R. Towns

Sole Panelist

Date: February 13, 2023