

ADMINISTRATIVE PANEL DECISION

Equinor ASA v. Domain Wizards

Case No. D2023-0173

1. The Parties

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

The Respondent is Domain Wizards, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <equinorytkss.xyz> (the “Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed 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 the same date, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and its contact details.

The Center verified that 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 30, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 19, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 20, 2023.

The Center appointed Nicholas Smith as the sole panelist in this matter on March 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

The Complainant is a Norwegian company, founded in 1972 that operates in 30 countries around the world developing oil, gas, wind and solar energy. Formerly known as Statoil ASA, in 2018 the Complainant changed its name to Equinor ASA and since then has provided its services under the trade mark EQUINOR (“EQUINOR Mark”). The Complainant also states that it is the owner of more than 100 domain names containing the EQUINOR Mark.

Among other registrations, the Complainant owns the following trademark registrations for the EQUINOR Mark:

- European Union trade mark registration No. 017900772, 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;
- United Kingdom trade mark registration No. UK00917900772, 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.

The Domain Name was registered on January 6, 2023. The Domain Name redirects to a third-party website at “www.kittymail.co.uk” purporting to offer an online e-mail service. The MX records (*i.e.* the mail exchanger records specifying the mail server responsible for accepting email messages) for the Domain Name suggest that it can be used for email communication. The Panel notes that the present proceeding is factually similar to *Equinor ASA v. Domain Synergy*, WIPO Case No. [D2022-3957](#) in which a United Kingdom-based respondent (with a different name to the present Respondent) registered a domain name wholly incorporating the EQUINOR Mark and redirected the domain name, without explanation, to “www.kittymail.co.uk.”

5. Parties’ Contentions

A. Complainant

The Complainant makes the following contentions:

- (i) that the Domain Name is confusingly similar to the Complainant’s EQUINOR Mark;
- (ii) that the Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) that the Domain Name has been registered and is being used in bad faith.

The Complainant is the owner of the EQUINOR Mark, having registered the EQUINOR Mark in the United Kingdom and other jurisdictions. The Domain Name is confusingly similar to the EQUINOR Mark, merely adding the meaningless letters “ytkss” to the wholly incorporated EQUINOR Mark.

There are no rights or legitimate interests held by the Respondent in respect of the Domain Name. The Respondent is not commonly known by the Domain Name nor has the Complainant provided a licence or authorization to register the Domain Name or any domain name incorporating the EQUINOR Mark. There is no evidence of the Respondent’s use of the Domain Name in connection with a *bona fide* offering of goods or services or for a legitimate noncommercial purpose. Rather the redirection of the Domain Name to a website promoting an e-mail service unconnected to the Complainant is not fair use or an otherwise legitimate noncommercial purpose.

The Domain Name was registered and is being used in bad faith. Given the reputation of the Complainant and the nature of the Domain Name, it is certain that the Respondent had knowledge of the EQUINOR Mark at the time of its registration. The Domain Name is being used in bad faith by taking advantage of any confusion between the Domain Name and the Complainant’s EQUINOR Mark.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

To prove this element the Complainant must have trade or service mark rights and the Domain Name must be identical or confusingly similar to the Complainant's trade or service mark.

The Complainant is the owner of the EQUINOR Mark, having registrations for the EQUINOR Mark as a trade mark in the United Kingdom and numerous other jurisdictions around the world.

The Domain Name consists of the EQUINOR Mark with the addition of the letters "ytkss". Other UDRP panels have repeatedly held that where the relevant trade mark is recognizable within the disputed domain name, the addition of other terms does not prevent a finding of confusing similarity under the first element; see section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Panel finds that the Domain Name is confusingly similar to the Complainant's EQUINOR Mark. Consequently, the requirement of paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

To succeed on this element, a complainant must make out a *prima facie* case that the respondent lacks rights or legitimate interests in the domain name. If such a *prima facie* case is made out, then the burden of production shifts to the respondent to demonstrate rights or legitimate interests in the domain name.

Paragraph 4(c) of the Policy enumerates several ways in which a respondent may demonstrate rights or legitimate interests in a domain name:

"Any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate your rights or legitimate interests to the domain name for purposes of Paragraph 4(a)(ii):

- (i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or
- (iii) you are 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 is not affiliated with the Complainant in any way. The Respondent has not been authorized by the Complainant to register or use the Domain Name or to seek the registration of any domain name incorporating the EQUINOR Mark. There is no evidence that the Respondent is commonly known by the Domain Name or a name corresponding to the Domain Name.

There is no evidence that the Respondent has used or made demonstrable preparations to use the Domain Name in connection with a legitimate noncommercial fair use or a *bona fide* offering of goods or services. The use of the Domain Name to redirect to a third party website at "www.kittymail.co.uk" is not a legitimate

noncommercial fair use nor a *bona fide* offering of goods or services. There is no explanation or obvious reason as to why a party would register a domain name corresponding to the well-known and coined EQUINOR Mark for the purpose of promoting a third party service unconnected to the Complainant. In the absence of any explanation by the Respondent for its actions, the Panel on the balance of probabilities takes the view that registering the Domain Name (which includes the EQUINOR Mark in its entirety) for the redirection to “www.kittymail.co.uk” does not give rise to rights or legitimate interests in the Domain Name.

The Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the Domain Name. The Respondent has failed to rebut that *prima facie* case and establish that it has rights or legitimate interests in the Domain Name under the Policy. The Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

For the purposes of paragraph 4(a)(iii) of the Policy, the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that the respondent has registered or has 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 trade mark or service mark or to a competitor of the complainant, for valuable consideration in excess of its documented out-of-pocket costs directly related to the domain name; or
- (ii) the respondent has registered the domain name in order to prevent the owner of the trade mark 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) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, the respondent has intentionally attempted 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 the respondent’s website or location. (Policy, paragraph 4(b)).

The Panel finds that the Respondent was aware of the Complainant and its reputation in the EQUINOR Mark at the time the Respondent registered the Domain Name. The Respondent has provided no explanation, and none is immediately obvious, why an entity would register the Domain Name that wholly incorporates the coined EQUINOR Mark unless there was an awareness of and an intention to create a likelihood of confusion with the Complainant and its EQUINOR Mark. In these circumstances, the Respondent’s conduct in registering the Domain Name amounts to registration in bad faith.

As discussed under the heading “Rights and Legitimate Interests” the Panel is unpersuaded that the redirection of the Domain Name to “www.kittymail.co.uk,” or any other aspect of the Respondent’s conduct, provides a basis to conclude that the Respondent has registered or used the Domain Name in good faith. Rather, the Panel is prepared to infer, based on the fame and coined nature of the EQUINOR Mark, the presence of MX records relating to the Domain Name suggesting that it might be or might have been used for e-mail communication, the lack of legitimate noncommercial or fair use by the Respondent thus far and the failure by the Respondent to participate in this proceeding or otherwise provide any explanation of its conduct, that the Domain Name might be later used as a website or email address that will make reference to the Complainant in an illicit or unapproved manner. As such, the Panel finds that the use of the Domain Name to redirect users to “www.kittymail.co.uk” amounts to use in bad faith.

Accordingly, the Panel finds that the Respondent has registered and is using the Domain Name in bad faith under 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 Domain Name, <equinorytkss.xyz>, be transferred to the Complainant.

/Nicholas Smith/

Nicholas Smith

Sole Panelist

Date: March 15, 2023