

## **ADMINISTRATIVE PANEL DECISION**

Equinor ASA v. Syed J. Hussain, Domain Management  
Case No. D2023-0962

### **1. The Parties**

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

The Respondent is Syed J. Hussain, Domain Management, United States of America (“United States”).

### **2. The Domain Name and Registrar**

The disputed domain name <equinorwindusa.com> is registered with Sav.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 3, 2023. On March 3, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 3, 2023, 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 (PrivacyProtection.Com, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 6, 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 March 6, 2023.

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 March 8, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 28, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 29, 2023.

The Center appointed Manuel Moreno-Torres as the sole panelist in this matter on April 3, 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 operating in 30 countries around the world in the energy sector. Formerly known as Statoil ASA, in 2018 the Complainant was renamed as to Equinor ASA.

The Complainant is the owner of the trademark EQUINOR in different jurisdictions. By way of example, European Union Intellectual Property Office with registration number 017900767, filed on May 15, 2018 and registered on January 18, 2019.

The trademark EQUINOR is to be considered well-known for the purposes of the UDRP.

The Complainant is the owner of more than 100 domain names containing the EQUINOR trademark or minor variations.

The Respondent registered the disputed domain name on October 20, 2022, and redirects to a website where is being offered for sale.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant alleges that the disputed domain name <equinorwindusa.com> is confusingly similar to the Complainant's trademark EQUINOR as it incorporates the entire trademark. Further, the Complainant refers to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") section 1.7 and 1.8 to support a finding of confusingly similarity to Complainant's EQUINOR trademark. The Complainant therefore believes that the additional words "wind" and "usa" should be disregarded. Likewise, the Complainant also contends that the generic Top-Level Domain ("gTLD") ".com" is not sufficient to prevent a finding of confusing similarity.

As to the second requirement, the Complainant asserts that the Respondent has no rights to or legitimate interests in respect of the disputed domain name. Indeed, says the Complainant, 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. Further, the Respondent is not using the disputed domain name in connection with any legitimate non-commercial or fair use without intent for commercial gain and, the Respondent is not generally known by the disputed domain name. Likewise, says the Complainant, the Respondent has not acquired any trademark or service mark rights in that name or mark. The Complainant further submits that the Respondent is neither using the disputed domain name in connection with a *bona fide* offering of goods or services.

Finally, the Complainant concludes that the Respondent registered and is using the disputed domain name in bad faith. The Respondent, insists the Complainant, was fully aware of the fact that it incorporated a well-recognized and distinctive trademark in which the Respondent had absolutely no prior rights.

The Complainant also points out the redirection of the disputed domain name to <dan.com>, a website where it is being offered for sale at USD 2,750.

The Complainant believes that the disputed domain name may have been registered with the purpose of selling it to the trademark owner, given that the Complainant is active on Twitter under the username "EquinorWindUS" and highlights its wind projects in the United States in its website.

##### **B. Respondent**

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

## 6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed the Complainant must satisfy the Panel that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

There are no exceptional circumstances within paragraph 5(f) of the Rules to prevent the Panel from determining the dispute based upon the Complaint, notwithstanding the failure of the Respondent to file a Response. Under paragraph 14(a) of the Rules in the event of such a “default” the Panel is still required “to proceed with a decision on the complaint”, whilst under paragraph 14(b) it “shall draw such inferences there from as it considers appropriate”. This dispute resolution procedure is accepted by the domain name registrant as a condition of registration.

### A. Identical or Confusingly Similar

As noted, the Complainant has demonstrated trademark rights over EQUINOR for purposes of the UDRP. A side-by-side comparison between the trademark and the disputed domain name leads the Panel to recognize EQUINOR. The Complainant has highlighted the [WIPO Overview 3.0](#) section 1.8 to support a finding of confusing similarity. The Panel finds that the Complainant is right since the additional words “wind” and “usa” do not prevent a finding of confusingly similarity under the first element.

Likewise the Panel refers to the [WIPO Overview 3.0](#), section 1.11: “The applicable Top Level Domain (‘TLD’) in a domain name [...] is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.”

Therefore, the first requirement is met under paragraph 4(a)(i) of the Policy.

### B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides that the following circumstances can be situations in which the Respondent has rights or legitimate interests in a disputed domain name:

- (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.

According with the allegations and evidence, the Panel finds that none of the above circumstances apply in this case. The records provide no evidence as to the Respondent been commonly known by the disputed domain name, nor being the owner of a trademark corresponding to the disputed domain name. Neither there is evidence in the records that the Respondent is using the disputed domain name in connection with a *bona fide* offering of goods or services. Indeed, there is evidence of the attempt to sell the disputed domain name through a website for an amount in excess of regular out-pocket costs that alone and without Respondent’s explanations cannot provide legitimate interest. Besides, there is no evidence that the

Respondent is using the disputed domain name in connection with any legitimate non-commercial or fair use without intent for commercial gain.

While the burden of proof in UDRP proceedings rests on the complainant, panels have recognized that proving a respondent lack of rights or legitimate interests in a domain name may result in the often-impossible task of “proving a negative”. Accordingly, panels have established, since the inception of the UDRP, that it is sufficient to raise a *prima facie* case against the respondent and then the evidential burden of production shifts to the respondent. See *Block.one v. See PrivacyGuardian.org / Burstein-Applebee, Jerry K. Chasteen*, WIPO Case No. [D2021-1516](#).

Here, the Complainant has established a *prima facie* case that the Respondent does not have any rights or legitimate interests in the disputed domain name and, thereby, the burden of production shifts to the Respondent to produce evidence demonstrating rights or legitimate interests in respect of the disputed domain name. However, the silence of the Respondent, prevents the Panel from assessing its allegations and evidence and leaves the Complainant's *prima facie* case unrebutted.

The Panel also notes that by adding “wind” and “usa” to the EQUINOR trademark in the disputed domain name the Respondent is targeting the Complainant, its trademarks and its business. Thus, this cannot be legitimate.

Therefore, the Complainant has met the second element under paragraph 4(a)(ii) of the Policy to the satisfaction of the Panel.

### **C. Registered and Used in Bad Faith**

Noting that bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark, the Panel now looks at the third requirement of the test.

By registering the disputed domain name that includes Complainant's name and or its trademark, the Respondent gives clues that he was aware of the Complainant and its trademarks. Since “EQUINOR” is a coined and well-known term, see *Equinor ASA v. Domain Wizards*, WIPO Case No. [D2023-0173](#), the records provide no indicia of why the Respondent would register the disputed domain name but to target the Complainant. Under these circumstances, the Panel finds that the Respondent knew or should have known about EQUINOR when registering the disputed domain name. Therefore, in bad faith.

The use to which the disputed domain name is put is limited to an offer to sell. However, the Panel finds that the Respondent attempted to exploit Complainant's trademark somehow. As noted, there is a likely knowledge of Complainant's trademark rights and EQUINOR is to be considered well-known. Besides, there is a failure of the Respondent to rebut Complainant's allegations as well as a use of a privacy service provider by the Respondent to register the disputed domain name, which delays the disclosure of the identity of the underlying registrant. Finally, there is pattern of abusive registration by the Respondent. That is to say, the Panel has made a cursory search and have found that Syed Hussain (without middle “J” and also as “SyedJ Hussain”) alone or with Domain Management or a third company has been involved in more than twenty UDRP cases since year 2000 (See *AXA SA v. Contact Privacy Inc. / Syed Hussain, Domain Management*, WIPO Case No. [D2017-0998](#)). The Panel finds that, on balance, the Respondent is the same person.

Under the above circumstances, the Panel finds that the Respondent's goal to register the disputed domain name was to sell it to the Complainant or one of its competitors and, therefore, an abusive registration and use is met.

Accordingly, the Panel finds 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, <equinorwindusa.com> be transferred to the Complainant

*/Manuel Moreno-Torres/*

**Manuel Moreno-Torres**

Sole Panelist

Date: April 17, 2023