

ADMINISTRATIVE PANEL DECISION

Equifax Inc. v. Domain Administrator, WDAPL
Case No. D2022-3624

1. The Parties

The Complainant is Equifax Inc., United States of America (“United States”), represented by The Giga Law Firm, Douglas M. Isenberg, Attorney at Law, LLC, United States.

The Respondent is Domain Administrator, WDAPL, Netherlands.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 29, 2022. On September 30, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 3, 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 October 7, 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 October 7, 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 October 11, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 31, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 1, 2022.

The Center appointed Ada L. Redondo Aguilera as the sole panelist in this matter on November 3, 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 a leading global provider of information solutions and human resources business process outsourcing services for businesses, governments and consumers. The Complainant was originally incorporated under the laws of the State of Georgia (United States) in 1913, and its predecessor company dates back to 1899.

The Complainant offers a credit reporting service that provides consumers with a summary of their credit history, and certain other information, reported to credit bureaus by lenders and creditors.

The Complainant registered the domain name <equifax.com> on February 21, 1995, which displays its primary website.

The Complainant owns at least 221 trademark registrations in at least 56 jurisdictions around the world for trademarks that consist of or contain the word "equifax", which was first used in commerce and registered since 1975.

The Complainant is the owner of the following EQUIFAX Trademarks in the United States (the "Trademark"):

- EQUIFAX: United States Reg. No. 1,027,544 (first used in commerce March 4, 1975; registered December 16, 1975) for use in connection with "insurance risk information reporting services concerning potential policy holders".
- EQUIFAX: United States Reg. No. 1,045,574 (first used in commerce March 4, 1975; registered August 3, 1976) for use in connection with "conducting investigations and reporting on individuals and firms concerning credit, character and finances..."
- EQUIFAX: United States Reg. No. 1,644,585 (first used in commerce March 4, 1975; registered May 14, 1991)

The disputed domain name was registered on December 3, 2006. At the time the Complaint was filed, the disputed domain name did not resolve to an active website. At the time of this decision, the disputed domain name resolves to a web page featuring pay-per-click ("PPC") hyperlinks such as the following: Equifax Free Credit Reports; Equifax Consumer Services; Equifax Identity Theft; Equifax Family Plan; Fraud Alert; Social Security Number Monitoring; Equifax Credit Watch.

And the disputed domain name resolved to Related Searches: Equifax Consumer Credit Report, Credit Score Monitoring, Annual Credit Reports.

5. Parties' Contentions

A. Complainant

The Complainant argues that the disputed domain name is confusingly similar to its trademark EQUIFAX. A typosquatting case due to the fact that the trademark EQUIFAX can be recognized in the disputed domain name using a "d" instead of an "f". Also, the Complainant argues that the Respondent has no rights or legitimate interests with respect to the disputed domain name and finally, that the Respondent registered and is using the disputed domain name in bad faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Panel is satisfied that the Complainant has established their trademark rights in EQUIFAX. The test that a panel must carry out in order to establish if a disputed domain name is confusingly similar to a trademark involves the comparison between the trademark and the disputed domain name. In this case, the disputed domain name consist of a misspelling of the Trademark.

In the present case, the letter “f” in EQUIFAX was replaced by the letter “d” in the disputed domain name. It is well established that a domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered to be confusingly similar to the relevant mark for the purposes of the first element. In the present case, the disputed domain name contains sufficiently recognizable aspects of the Trademark (see section 1.9 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”). This is a typical typosquatting case as the disputed domain name is clearly a misspelling of the Trademark. Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, a respondent may establish rights to or legitimate interests in a disputed 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 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.

Even though the Policy addresses ways in which a respondent may demonstrate rights or legitimate interests in a disputed domain name, it is well established that, as it is put in section 2.1 of [WIPO Overview 3.0](#), that a complainant is required to make out a *prima facie* case that the respondent lacks rights legitimate interests. Once such *prima facie* case is made, the burden of production shifts to the respondent to come forward with relevant allegations and evidence demonstrating rights or legitimate interests in the domain name. If the Respondent does come forward with arguments or evidence proving their rights or legitimate interests, the panel weighs all the evidence, with the burden of proof always remaining on the complainant.

The Complainant contends that the Respondent is not referred to or commonly known by the disputed domain name or their Trademark.

According to the Complainant, the Respondent has not been authorized by the Complainant to register or use the Trademark in any way including the disputed domain name.

At the time the Complaint was filed, the disputed domain name did not resolve to an active website. The Panel notes that the disputed domain name is a typosquatting version of the Complainant’s trademark, and its passive holding does not give rise to rights or legitimate interests. Currently, the website displayed at the disputed domain name does not show any *bona fide* offering of goods or services, due to the fact that the website displayed at the disputed domain name is a PPC site which redirects Internet users to third party commercial websites which are competitors of the Complainant. This does not confer any rights or legitimate interests.

The Respondent had the opportunity to demonstrate its rights or legitimate interests but did not do so. In the absence of a Response from the Respondent, the *prima facie* case established by the Complainant has not been refuted by the Respondent. Therefore, the Panel finds that the Complainant has established that the Respondent has no rights or legitimate interests in the disputed domain name. Therefore, the Complainant has complied with the second element of the Policy. Accordingly, the Panel finds that the

Complainant has satisfied paragraph 4(a)(ii) of the Policy

C. Registered and Used in Bad Faith

To succeed under the Policy, the Complainant must demonstrate that the disputed domain name has been registered and is being used in bad faith. It is a double requirement. The Panel is satisfied that the Respondent must have been aware of the Trademark when it registered the disputed domain name particularly since the disputed domain name is a clear misspelling of the Trademark. Further, the use of the disputed domain name is also in bad faith. Firstly, there is a presumption of bad faith in the registration and use of a domain name in typosquatting cases. This was the opinion of the panel in *TPI Holdings, Inc. v. LaPorte Holdings*, WIPO Case No. [D2006-0235](#), “typosquatting – intentionally adding or deleting a letter or two, or transposing letters in, a valid mark of another in one’s domain name – is presumptive evidence of bad faith in registration and use of a disputed domain name”.

In the present case, the Respondent’s website that is displayed at the disputed domain name also supports a finding that the disputed domain name is being used in bad faith. At the time of this decision, the website displayed at the disputed domain name is a PPC site which has been set up to the commercial benefit of the Respondent and which directs Internet users to other websites that provide services similar to the Complainant’s services. It is highly likely that Internet users when typing the Complainant’s domain name, if they commit a typographical error and introduce the disputed domain name (noting the letter “d” is next to the letter “f” in a keyboard), Internet users will believe that the website is official or related in some way to the Complainant. The disputed domain name is likely to confuse Internet users trying to find the Complainant’s official website. Such confusion will inevitably result due to the fact of the misspelling of the Trademark in the disputed domain name with a clear intention on the part of the Respondent to produce confusion and misleading Internet users into believing that the website is authorized or endorsed by the Complainant. In conclusion, the disputed domain name is being used by the Respondent in bad faith.

At the time the Complaint was filed, the disputed domain name did not resolve to an active website. The Panel notes that the passive holding of the disputed domain name does not preclude a finding of bad faith (see *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)). In fact, the further circumstances surrounding the registration of and use of the disputed domain name confirms the finding that the Respondent has registered and is using the disputed domain name in bad faith: (1) the Complainant’s Trademark is well-known; (2) the Respondent failed to submit a formal response or to provide any evidence of actual or contemplated good-faith use; and (3) the nature of the disputed domain name (e.g., incorporating a typosquatted version of the Trademark).

The Panel therefore also concludes that the disputed domain name was registered and is being used in bad faith under paragraph 4(b)(iv) 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 <equidax.com> be transferred to the Complainant.

/Ada L. Redondo Aguilera/

Ada L. Redondo Aguilera

Sole Panelist

Date: November 14, 2022