

ADMINISTRATIVE PANEL DECISION

Equifax Inc. v. Domain Administrator, Fundacion Privacy Services LTD Case No. D2023-0742

1. The Parties

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

The Respondent is Domain Administrator, Fundacion Privacy Services LTD, Panama.

2. The Domain Name and Registrar

The disputed domain name <equifaxa.com> is registered with Media Elite Holdings Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 17, 2023. On February 20, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 21, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the 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 February 21, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 13, 2023. On March 1, 2023, the Registrar sent an email to the Center claiming that “the domain owner said he agrees for us to unlock the domain and give the authinfo to the complainant without waiting for a decision.” In an email of March 10, 2023, the Complainant asked the Respondent to sign a settlement agreement which it provided, and on March 14, 2023, the Complainant notified the Center that it had not received a response from the Respondent or Registrar. The Registrar replied on the same day that “[t]he domain owner did not respond yet but he has given us the permission to give the domain to you. We can move it out of his account, unlock it and provide you the auth info so you transfer it. If that’s not ok for you please proceed with the case the normal way.” The

Respondent did not submit any formal response. Accordingly, the Center notified the Commencement of Panel Appointment Process on March 15, 2023.

The Center appointed Alfred Meijboom as the sole panelist in this matter on March 20, 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 global provider of information solutions and human resources business process outsourcing services for businesses, governments and consumers, which was established in 1913 with its predecessor company dating back to 1899, and operating or having investments in 24 countries in North America, Central and South America, Europe and the Asia Pacific region. The Complainant owns several hundreds of trademarks for EQUIFAX, including.

- U.S. trademark with registration number 1,027,544 of December 16, 1975 for services in class 36;
- U.S. trademark with registration number 1,045,574 of August 3, 1976 for services in class 35;
- European Union trademark with registration number 006979306 of June 10, 2009 for services in classes 35, 36, 38, 41, 42, and 45.

These trademarks are hereafter referred to as the "EQUIFAX Trademark."

The disputed domain name was registered on April 23, 2023, and is used to redirect Internet users to a website for TransUnion, one of the Complainant's primary competitors.

5. Parties' Contentions

A. Complainant

The Complainant alleges that the disputed domain name is confusingly similar to the EQUIFAX Trademark as the disputed domain name contains the EQUIFAX Trademark in its entirety, simply adding the letter "a" at the end, which does nothing to alleviate confusing similarity.

The Complainant further alleges that the Respondent has no rights or legitimate interests in respect of the disputed domain name because the Respondent has never been commonly known by the disputed domain name, the Complainant has never assigned, granted, licensed, sold, transferred or in any way authorized the Respondent to register or use the EQUIFAX Trademark in any manner, and the redirection of Internet Users to a website for TransUnion, a Complainant's direct competitor, does not create a *bona fide* offering of goods or services under the Policy.

According to the Complainant, the disputed domain name was registered in bad faith because the EQUIFAX Trademark is famous and/or widely known, and the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith, while it is also implausible that the Respondent was unaware of the Complainant when it registered the disputed domain name given the fame of the EQUIFAX Trademark. Further, the Complainant alleges that by using the disputed domain name to redirect Internet users to a website for one of the Complainant's primary competitors, the Respondent is clearly creating a likelihood of confusion with the EQUIFAX Trademark, constituting use of the disputed domain name in bad faith.

B. Respondent

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

6. Discussion and Findings

A. Consent to Transfer

The Panel shall first address the matter of the Registrar's emails confirming the Respondent's agreement to transfer the disputed domain name to the Complainant, apparently without being prepared to sign a settlement agreement, and with the Complainant demanding the continuation of these administrative proceedings. The Panel observes that paragraph 17 of the Rules provide a settlement process which the Respondent has not followed. As set out in section 4.10 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), "[w]here parties to a UDRP proceeding have not been able to settle their dispute prior to the issuance of a panel decision using the 'standard settlement process' [...], but where the respondent has nevertheless given its consent on the record to the transfer (or cancellation) remedy sought by the complainant, many panels will order the requested remedy solely on the basis of such consent. In such cases, the panel gives effect to an understood party agreement as to the disposition of their case (whether by virtue of deemed admission, or on a no-fault basis)."

However, in the matter at hand the Complainant was aware of the Respondent's offer to voluntarily transfer the disputed domain name to the Complainant, but nevertheless asked the Center for the appointment of a Panel. The Panel infers from the Complainant's request that the Complainant does not agree with a voluntarily transfer of the disputed domain name without the Respondent entering into a settlement agreement and prefers a recorded decision instead. The Panel shall therefore proceed to determine the case below (e.g., *Patriot Supply Store, Inc., d/b/a My Patriot Supply v. Domain May be for Sale, Check Afternic.Com Domain Admin, Domain Registries Foundation*, WIPO Case No. [D2016-1573](#); and *Equifax Inc. v. Privacy Protection / Golliardo S.A.*, WIPO Case No. [D2021-2254](#)).

B. Default

The Respondent did not formally file a Response. However, as set out in section 4.3 of the [WIPO Overview 3.0](#), the consensus view of UDRP panels is that the respondent's default does not automatically result in a decision in favor of the complainant. The Complainant must still establish each of the three elements required by paragraph 4(a) of the Policy. Although the Panel may draw appropriate inferences from the Respondent's default, paragraph 4(a) of the Policy requires the Complainant to support its assertions with actual evidence in order to succeed in this proceeding. Paragraph 14(b) of the Rules provides that, in the absence of exceptional circumstances, the panel shall draw such inferences as it considers appropriate from a failure of a party to comply with any provision of, or requirement under the Rules. The Panel finds that in this case there are no such exceptional circumstances.

Under the Policy, the Complainant must prove 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 has been registered and is being used in bad faith.

C. Identical or Confusingly Similar

It is well established that the generic Top-Level Domain (“gTLD”) “.com” should typically be disregarded in the assessment under paragraph 4(a)(i) of the Policy as it is viewed as a standard registration requirement.

The Panel finds that the disputed domain name is confusingly similar to the EQUIFAX Trademark. The disputed domain name incorporates the EQUIFAX Trademark in its entirety, and merely adds the letter “a”, which does not prevent a finding of confusing similarity between the disputed domain name and the EQUIFAX Trademark under the Policy (see, e.g., *ACCOR v. I&M Raamatupidamise O/Accora Consult O*, WIPO Case No. [D2006-0650](#); *Haas Food Equipment GmbH v. VistaPrint Technologies Ltd*, WIPO Case No. [DCO2015-0016](#)).

Consequently, the first element of paragraph 4(a) of the Policy is met.

D. Rights or Legitimate Interests

The Complainant must show a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, which the Respondent may rebut (e.g., *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#)).

The Panel takes note of the Complainant’s various allegations and more specifically that the Respondent is not commonly known under the disputed domain name, and was not given authorization by the Complainant to use the EQUIFAX Trademark as part of the disputed domain name. These allegations of the Complainant remain unchallenged.

Furthermore the Panel agrees with the finding of previous UDRP panels who considered redirection of Internet users to the website for TransUnion, one of the Complainant’s primary competitors, in similar circumstances as not creating a *bona fide* offering of goods or services, and therefore showing a lack of the Respondent’s rights or legitimate interests (e.g., *Equifax Inc. v. Milen Radumilo*, WIPO Case No. [D2022-0780](#); *Equifax Inc. v. Wesley Karr, Speedplexer, Inc.*, WIPO Case No. [D2022-4430](#)).

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

E. Registered and Used in Bad Faith

Pursuant to paragraph 4(b)(iv) of the Policy, there is evidence of registration and use of the disputed domain name in bad faith where the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant’s trademarks as to the source, sponsorship, affiliation, or endorsement of the Respondent’s website or location or of a product or service offered on the Respondent’s website or location.

In the Panel’s view, it is obvious that at the time the Respondent registered the disputed domain name it must have had the EQUIFAX Trademark in mind, as the Complainant secured registration for the EQUIFAX Trademark many decades earlier and the EQUIFAX Trademark could be regarded as well known (confirmed in, e.g., *Equifax Inc. v. 石磊 (Shi Lei)*, WIPO Case No. [D2021-3319](#); *Equifax Inc. v. S Jon Grant*, WIPO Case No. [D2022-4824](#)), and the Respondent redirected the disputed domain name to TransUnion, one of the Complainant’s primary competitors. In this respect, section 3.1.4 of the [WIPO Overview 3.0](#) states that redirecting the domain name to a competitor’s website is registration and use of the disputed domain name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the complainant’s mark, which constitutes bad faith.

Consequently, the third and last element of paragraph 4(a) of the Policy is also met.

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 <equifaxa.com> be transferred to the Complainant.

/Alfred Meijboom/

Alfred Meijboom

Sole Panelist

Date: April 3, 2023