

ADMINISTRATIVE PANEL DECISION

Equifax Inc. v. Superdev Coder, superdevcoder
Case No. D2023-1744

1. The Parties

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

The Respondent is Superdev Coder, superdevcoder, United States.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 20, 2023. On April 20, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 20, 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 (Whois Agent (689970283) / Whois Privacy Protection Service, Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 21, 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 April 24, 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 April 28, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 18, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 19, 2023.

The Center appointed William F. Hamilton as the sole panelist in this matter on June 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 global provider of information solutions and human resource services for businesses, governments, and consumers. Among its many services, the Complainant offers a credit reporting service that provides consumers with a summary of their credit history, and certain other information, that is reported to credit bureaus by lenders and creditors.

Headquartered in Atlanta, Georgia, United States, the Complainant operates or has investments in 24 countries in North America, Central and South America, Europe, and the Asia Pacific region. The Complainant employs approximately 11,000 people worldwide.

The Complainant is the registrant of the domain name <equifax.com>, which was created on February 21, 1995.

The Complainant owns at least 221 trademark registrations in at least 56 jurisdictions around the world for marks that consist of or contain the trademark EQUIFAX (the "Mark"). The Mark was first registered in 1975. The Complainant's registrations for the Mark in the United States include the following:

- EQUIFAX: United States Registration Number 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 Registration Number 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 Registration Number 1,644,585 (first used in commerce March 4, 1975; registered May 14, 1991) for use in connection with, *inter alia*, "providing on-line access to computer databases containing information relating to applicants for insurance, credit, mortgage loans, and employment".

The disputed domain name was created on January 13, 2023. The disputed domain name resolved to a website that offered commercial financial services in competition with the Complainant when the Complaint was filed. The disputed domain name currently does not resolve to an active website.

5. Parties' Contentions

A. Complainant

The Complainant asserts the disputed domain name is confusingly similar to the Mark because the disputed domain name adopts the Mark entirely and adds as a suffix the generic word "trade". The Complainant asserts that the Respondent was never authorized by the Complainant to use the disputed domain name or the Mark, is not generally known by the disputed domain name, never operated a business under the disputed domain name, has not advertised the disputed domain name, and never engaged in any *bona fide* commercial activity in connection with the disputed domain name. The Complainant asserts that the Respondent registered and used the disputed domain name in bad faith to unfairly compete with the Complainant and to confuse customers.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that in order to divest a respondent of a domain name, a complainant must demonstrate each of the following: (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 in respect of the domain name; and (iii) the domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Panel finds that the disputed domain name is confusingly similar to the Complainant's Mark.

The disputed domain name is composed of the Mark which is immediately followed by the dictionary word "trade" rendering the disputed domain name confusingly similar to the Mark. *Giorgio Armani S.p.A Milan Swiss Branch Mendrisio v. Mage Enterprises Inc.*, WIPO Case No. [D2011-1172](#). A domain name which wholly incorporates a complainant's registered mark is sufficient to establish confusingly similarity for the purposes of the Policy. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), sections 1.7 and 1.8 ("where the relevant trademark is recognizable with the disputed domain name, the additions of other terms (whether descriptive, geographic, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element"); *Equifax Inc. v. Jason Trudeau, 8542074 Canada Inc*, WIPO Case No. [D2020-0452](#) (transfer of <equifaxfinancial.com>)

The Top-Level Domain of the disputed domain name, in this case ".com", may be disregarded for the purposes of assessment under the first element, as it is viewed as a standard registration requirement. [WIPO Overview 3.0](#), section 1.11.1.

The Complainant has met its burden under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy gives non-exclusive examples of instances in which 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 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.

Because a respondent in a UDRP proceeding is in the best position to assert rights or legitimate interests in a domain name, it is well established that after a complainant makes a *prima facie* case, the burden of production on this element shifts to the respondent to come forward with relevant evidence of its rights or legitimate interests in the domain name. See [WIPO Overview 3.0](#), section 2.1. The Respondent, however,

has failed to come forth with any evidence showing any rights or legitimate interests in the disputed domain name.

The Complainant has demonstrated trademark rights in the Mark and observed that the Respondent is not known by a corresponding name and that the Respondent has used the disputed domain name for its own, competing commercial website. The Complainant has specifically disavowed providing the Respondent with permission to use the disputed domain name or the Mark. There is no evidence that the Respondent has conducted any *bona fide* business under the disputed domain name or is commonly known by the disputed domain name. The disputed domain name will likely confuse unsuspecting Internet users into believing the disputed domain name resolves to a website associated, sponsored, or affiliated with the Complainant.

The Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Under paragraph 4(b) of the Policy, bad faith may be established by any one of the following non-exhaustive scenarios:

- (i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name to the complainant who is 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) the respondent has 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) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line 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.

The Panel finds on the evidence presented that the disputed domain name was registered and is being used in bad faith.

The Mark is well-known in the United States where the Respondent resides. It strains credulity to believe that the Respondent innocently and unknowingly composed the disputed domain name entirely of the Complainant's Mark plus the financial term "trade" which resolves to a website offering competitive financial services with the Complainant. The Panel finds that the Respondent was aware of the Complainant's well-known Mark when registering and using the disputed domain name to attract unsuspecting Internet users to the Respondent's website.

Under the circumstances of this case, the mere fact that the disputed domain name does not currently resolve to an active website does not alter finding that the disputed domain name was registered and used in bad faith. [WIPO Overview 3.0](#), section 3.3; *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

The Complainant has met its burden under paragraph 4(a)(ii) 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 <equifaxtrade.com> be transferred to the Complainant.

/William F. Hamilton/

William F. Hamilton

Sole Panelist

Date: June 12, 2023