

ADMINISTRATIVE PANEL DECISION

Equifax Inc. v. Hanna El Hinn
Case No. D2022-0914

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 Hanna El Hinn, Canada.

2. The Domain Name and Registrar

The disputed domain name <equifax.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 March 15, 2022. On March 16, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same date, 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 March 18, 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 March 21, 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 April 1, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 21, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 22, 2022.

The Center appointed Gareth Dickson as the sole panelist in this matter on May 6, 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 global consumer credit reporting agency which was incorporated in 1913 and is based in the United States.

The Complainant is the owner of numerous trade mark registrations for EQUIFAX (the “Mark”) around the world, including:

- United States trade mark registration number 1027544, registered on December 16, 1975;
- United States trade mark registration number 1045574, registered on August 3, 1976; and
- United States trade mark registration number 1644585, registered on May 14, 1991.

The disputed domain name was registered on March 28, 2002. It currently redirects Internet users to a webpage featuring what appears to be sponsored links to parties other than the Complainant.

5. Parties’ Contentions

A. Complainant

The Complainant argues that it has rights in the Mark by virtue of its ownership of various trade mark registrations for the Mark around the world. It contends that the disputed domain name is an example of typosquatting and is confusingly similar to the Mark since it incorporates the Mark (which is recognisable within the disputed domain name) with the misspelling of the Mark by one character, under the generic Top-Level Domain (“gTLD”) “.com”.

The Complainant confirms that the disputed domain name was registered by the Respondent without its permission and that the Respondent is not a licensee of the Complainant. It alleges that the Respondent has been using the disputed domain name to give the impression that the disputed domain name is related to the Complainant and/or to divert customers to a website which contains click-through links for the Respondent’s commercial gain.

The Complainant submits that there is no evidence to suggest that the Respondent: has been commonly known by the disputed domain name; is making, or intends to make, a legitimate noncommercial or fair use of it or has ever used or demonstrated preparations to use it in connection with a *bona fide* offering of goods or services. It notes that the Respondent has been found by earlier panels to have engaged in bad faith registrations and cybersquatting over the course of a period of years, evidencing a pattern of conduct by the Respondent. See, e.g., *Hotwire, Inc. v. Hanna El Hinn, Dot Liban*, WIPO Case No. [D2015-2082](#); and *Expedia, Inc. v. Dot Liban, Hanna El Hinn*, WIPO Case No. [D2002-0433](#).

The Complainant submits that the Respondent must have known of the Complainant and the Mark when she registered the disputed domain name, as the Mark, according to the Complainant, is inherently distinctive, is well known throughout the world and is recognised and identified as being connected to the Complainant, making a coincidental adoption of the disputed domain name by the Respondent virtually impossible. In addition, the Complainant argues that the Respondent has used the disputed domain name to attempt to attract, for commercial gain, Internet users to her website by creating a likelihood of confusion with the Mark, contrary to the Policy. As such, the Complainant submits that the disputed domain name was registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant bears the burden of proving that:

- a) the disputed domain name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights;
- b) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- c) the disputed domain name has been registered and is being used in bad faith.

These criteria are cumulative. The failure of the Complainant to prove any one of these elements means the Complaint must be denied.

A. Identical or Confusingly Similar

The Panel accepts that the Complainant is the owner of, and therefore has rights in, the Mark. Section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ([“WIPO Overview 3.0”](#)) provides that: “[I]n cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing”.

Section 1.9 of the [WIPO Overview 3.0](#) provides that “[a] domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element”.

The Panel therefore finds that the disputed domain name is confusingly similar to the Mark, since the Mark is recognisable within the disputed domain name and that it is a common, obvious or intentional misspelling of the Mark, comprising the replacement of “e” in the Mark with “r” (which character is adjacent to “e” on a standard QWERTY keyboard), in the disputed domain name. This is a minor difference to the Mark and does not alter the confusing similarity between the disputed domain name and the Mark. The use of the gTLD “.com” does not prevent a finding of confusing similarity in this case.

Accordingly, the Panel finds that the disputed domain name is confusingly similar to a trade mark in which the Complainant has rights.

B. Rights or Legitimate Interests

Although a complainant is required to demonstrate that a respondent has no rights or legitimate interests in respect of the domain name, as explained in section 2.1 of the [WIPO Overview 3.0](#), the consensus view of previous UDRP panels is that where a complainant establishes a *prima facie* case that the respondent lacks rights or legitimate interests the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

In the current proceeding, the Complainant has established its *prima facie* case. The evidence before the Panel is that the Mark is neither generic nor descriptive but enjoys a degree of inherent distinctiveness that makes a coincidental adoption by the Respondent highly unlikely. The Complainant states that it has not given the Respondent permission to use the Mark, in a domain name or otherwise, and submits that the Respondent has not been commonly known by the disputed domain name.

There is no evidence that the Respondent has acquired any common law rights to use the Mark, is commonly known by the Mark or by the disputed domain name or has chosen to use the Mark in the disputed domain name in any descriptive manner or is making any use of the disputed domain name that

would establish rights or legitimate interests as a result of a legitimate noncommercial or fair use of it.

The disputed domain name appears to redirect users to a website offering pay-per-click links to parties other than the Complainant, which does not constitute a *bona fide* sale of goods or services or a legitimate noncommercial or fair use within the meaning of the Policy. Section 2.9 of the [WIPO Overview 3.0](#) states that: “[P]anel has found that the use of a domain name to host a parked page comprising PPC links does not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of the complainant’s mark or otherwise mislead Internet users”. This is relevant here since the Respondent’s selection of the disputed domain name for its similarity to the Mark is intended to create confusion and to reap commercial gain by trading on the Complainant’s goodwill in the Mark.

By not participating in these proceedings, the Respondent has failed to refute the Complainant’s *prima facie* case that it has met its burden under the second UDRP element.

As clearly stated in section 2.1 of the [WIPO Overview 3.0](#), “[...] a panel’s assessment will normally be made on the basis of the evidence presented in the complaint and any filed response. The panel may draw inferences from the absence of a response as it considers appropriate, but will weigh all available evidence irrespective of whether a response is filed”. Having reviewed and weighed the available evidence, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C. Registered and Used in Bad Faith

The Panel notes that the Mark has already been found by previous UDRP panels to be distinctive and to have a reputation, rather than being a descriptive or generic term.

The Panel also notes that the disputed domain name was registered over 25 years after the Mark was registered and accepts that the disputed domain name was chosen by reference to the Mark.

The disputed domain name is a clear example of a typosquatting domain name, that is, one which was chosen with a trade mark owner in mind, usually after the relevant trade marks have been registered, and for the purpose of diverting traffic away from that trade mark owner by capitalizing on Internet users’ typographical mistakes. This conclusion is inevitable from the fact that the disputed domain name has no meaning other than as a reference to the Mark and the Complainant.

As a result, and in the absence of evidence from the Respondent that the similarity of the disputed domain name to the Mark is coincidental, the Panel must conclude that the Respondent knew of the Complainant’s rights in the Mark when she registered the disputed domain name.

The Panel therefore finds that the Respondent’s registration of the disputed domain name was in bad faith since it attempted to appropriate for the Respondent, without the consent or authorisation of the Complainant, rights in the Complainant’s Mark.

The disputed domain name is also being used in bad faith, as it is being used for a commercial purpose that involves redirecting Internet users (in particular those seeking the Complainant) to parties other than the Complainant.

The Panel notes that the Respondent has not sought to explain her registration and use of the disputed domain name, and has not participated in these proceedings. There is also no conceivable use of the disputed domain name by the Respondent that would not be illegitimate and therefore there is no basis for the Panel to conclude that the Respondent’s use of the disputed domain name is justified.

Furthermore, the existence of several other UDRP proceedings having been won against the Respondent tends to support a finding of bad faith pattern, as stated in section 3.1.2 of the [WIPO Overview 3.0](#), “UDRP panels have held that establishing a pattern of bad faith conduct requires more than one, but as few as two instances of abusive domain name registration.”

Therefore, and on the basis of the information available to it, the Panel finds that the Respondent's use of the disputed domain name to redirect users to a website providing access to sponsored advertising is without justification and is inconsistent with the Complainant's exclusive rights in the Mark. Consideration of these and other factors militates in favour of a finding of bad faith.

The Panel finds that the Respondent has registered and is using the disputed domain name in bad faith.

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 <quifax.com> be transferred to the Complainant.

/Gareth Dickson/

Gareth Dickson

Sole Panelist

Date: May 19, 2022