

## **ADMINISTRATIVE PANEL DECISION**

Equifax Inc. v. Jewella Privacy - 9565f, Jewella Privacy LLC Privacy ID# 841230

Case No. D2022-2466

### **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 Jewella Privacy - 9565f, Jewella Privacy LLC Privacy ID# 841230, United States.

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

The disputed domain name <equifaxconsumer.com> (the “Disputed Domain Name”) is registered with Sea Wasp, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 7, 2022. On July 7, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On July 11, 2022, 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 July 18, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 7, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 9, 2022.

The Center appointed Angela Fox as the sole panelist in this matter on August 15, 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 describes itself as a leading global provider of information solutions and human resources business process outsourcing services for businesses, governments and consumers. It was incorporated in the State of Georgia, United States in 1913, and its predecessor company dates back to 1899. The Complainant operates or has investments in 24 countries in North America, Central and South America, Europe and the Asia Pacific region. It is a member of Standard & Poor's (S&P) 500 Index, and its common stock is traded on the New York Stock Exchange (NYSE). It employs approximately 11,000 people worldwide. Its business is conducted under the trademark EQUIFAX.

The Complainant operates its primary website at the domain name <equifax.com>, which it owns and which was created on February 21, 1995.

The Complainant states that it is the owner of at least 221 trademark registrations in at least 56 jurisdictions around the world for marks that consist of or contain the word EQUIFAX, which it first used in commerce and registered in 1975. The Complainant annexed details of some of those registrations to the Complaint, including the following:

- United States Trademark Registration 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".
- United States Trademark Registration 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 [...]".
- United States Trademark Registration No. 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 registered on March 7, 2015. According to the Complaint, the Respondent has been using it to redirect Internet users to a variety of different websites, including a website that falsely appears to be a warning from Microsoft, displaying multiple apparent pop-up windows and falsely informing users that their computers have "been infected with a Trojan Spyware" as part of an apparent malware scam and encouraging them to "Contact Windows Support", as shown in a screenshot included in the Complaint.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant submits that the Disputed Domain Name is confusingly similar to a trademark in which the Complainant has rights. The Disputed Domain Name incorporates the whole of the Complainant's registered trademark EQUIFAX, plus the non-distinctive word "consumer" and the domain name suffix ".com", which are not sufficient to avoid confusion with the Complainant's trademark.

The Complainant also submits that the Respondent has no rights or legitimate interests in the Disputed Domain Name. The Complainant has not assigned, granted, licensed, sold, transferred or in any way authorized the Respondent to register or use the EQUIFAX Trademark. There is no evidence that the Respondent has ever been commonly known by the Disputed Domain Name. Moreover, visitors to the website linked to the Disputed Domain Name are falsely informed of the existence of a security threat to their computers. The Complainant contends that such use is not use which is capable of giving rise to a legitimate right or interest in the Disputed Domain Name.

Finally, the Complainant submits that the Disputed Domain Name was registered and has been used in bad faith. The Complainant argues that it is implausible that the Respondent registered the Disputed Domain Name without knowing about the Complainant's trademark, which has been in use for some 47 years, and that use of the Disputed Domain Name to falsely inform Internet users of security threats to their computers is evidence that the Respondent registered and used the Disputed Domain Name with the intention of attracting Internet users to its website to disrupt the business of a competitor (*i.e.*, the Complainant) under paragraph 4(b)(iii) of the Policy. Alternatively, the Complainant argues that the Respondent has used the Disputed Domain Name to intentionally attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website under paragraph 4(b)(iv) of the Policy. In the further alternative, the Complainant argues that the Disputed Domain Name is inherently confusingly similar to its EQUIFAX trademark and there is no plausible good faith use to which the Disputed Domain Name, in the hands of the Respondent, could be put.

## **B. Respondent**

The Respondent did not reply to the Complainant's contentions and is in default. No exceptional circumstances explaining the default have been put forward. Therefore, in accordance with paragraphs 14 (a) and (b) of the Rules, the Panel will decide the Complaint and shall draw such inferences as it considers appropriate from the Respondent's default.

## **6. Discussion and Findings**

Under paragraph 4(a) of the Policy, a complainant can only succeed in an administrative proceeding under the Policy if the panel finds 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 the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

All three elements must be present before a complainant can succeed in an administrative proceeding under the Policy.

### **A. Identical or Confusingly Similar**

The Complainant has proved that it has registered trademark rights in EQUIFAX. The Disputed Domain Name incorporates EQUIFAX in its entirety adding only the word "consumer" and the non-distinctive domain name suffix ".com".

The WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7 states, "[I]n cases where a domain name incorporates the entirety of a trademark... the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing". The [WIPO Overview 3.0](#) adds at section 1.8, "Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element".

The Complainant points to other cases in which panels have found domain names containing a complainant's trademark plus the word "consumer" to be confusingly similar to the trademark (see *e.g.*, *Merck Sharp & Dohme Corp. v. Ignitee Digital Solutions Pvt. Ltd., Amit Debnath*, WIPO Case No. [D2011-2047](#) (<merckconsumerhealthcare.com>); and *BellSouth Intellectual Property Corporation v. Herrington Hart, NIRT*, WIPO Case No. [D2005-0672](#) (<consumer-bellsouth.com>).

Taking all of the above into account, the Panel is satisfied that the Disputed Domain Name is confusingly similar to the Complainant's registered EQUIFAX trademark.

### **B. Rights or Legitimate Interests**

The Complainant has not assigned, granted, licensed, sold, transferred or in any way authorized the Respondent to register or use the EQUIFAX Trademark. As noted by the Complainant, there is no evidence that the Respondent has ever been commonly known by the Disputed Domain Name. The Respondent has not responded to the Complaint and has made no effort to prove that it has any right or legitimate interest in the Disputed Domain Name.

The Complainant has shown that the Respondent has used the Disputed Domain Name to redirect to various websites including a website where Internet users are falsely informed of security threats on their computers, as part of an apparent malware scam. The Respondent has not taken the opportunity to provide any alternative explanation of its use. Section 2.13 of [WIPO Overview 3.0](#) states, "Panels have categorically held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent".

Such activities do not constitute use in connection with a *bona fide* offering of goods or services, nor are they use in relation to a legitimate noncommercial or fair use of the Disputed Domain Name without intent for commercial gain to misleadingly divert consumers or to tarnish the Complainant's trademark.

Taking all of the above into account, the Panel finds that the Respondent has no rights or legitimate interests in the Disputed Domain Name.

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

The Complainant has shown that the Respondent is using the Disputed Domain Name to redirect to different websites including a website where Internet users are falsely informed of security threats on their computers, as part of an apparent malware scam.

The use of a domain name which is confusingly similar to the Complainant's trademark in order to attract Internet users to a website for the purpose of conveying a false message of this kind, which appears moreover to be part of a malware scam, is, in the Panel's view, a form of bad faith use. Given the long-standing use of the Complainant's trademark (some 47 years) and the incorporation within the Disputed Domain Name of the Complainant's trademark and the word "consumer", which is relevant to the business carried out under the Complainant's trademark, suggest that it is highly unlikely that the Respondent was not aware of the Complainant's trademark when it registered the Disputed Domain Name, and that indeed the Respondent was targeting the Complainant in both registering and using the Disputed Domain Name. The Respondent has given no alternative explanation of its conduct.

The Complainant argues that the Respondent's motive in registering and using the Disputed Domain Name appears to have been to disrupt the Complainant's business and its relationship with its customers or potential customers (facts found to have constituted registration and use in bad faith in *Pancil, LLC v. Jucco Holdings*, WIPO Case No. [D2006-0676](#)). The Panel agrees that the facts of this case support this assertion, and the Respondent has made no attempt to refute this.

Taking all the above into account, the Panel finds that the Disputed Domain Name was registered, and has been used, 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 <equifaxconsumer.com> be transferred to the Complainant.

*/Angela Fox/*

**Angela Fox**

Sole Panelist

Date: August 26, 2022