

ADMINISTRATIVE PANEL DECISION

Equifax Inc. v. Nguyễn Văn Lữ
Case No. D2022-2750

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 Nguyễn Văn Lữ, Viet Nam.

2. The Domain Name and Registrar

The Disputed Domain Name <eqyufax.com> (the “Disputed Domain Name”) is registered with April Sea Information Technology Corporation (the “Registrar”).

3. Procedural History

The Complaint in English was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 26, 2022. On July 27, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On August 2, 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 August 2, 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 in English on August 4, 2022.

On August 2, 2022, the Center sent an email in English and Vietnamese to the Parties regarding the language of the proceeding. The Complainant requested that English be the language of the proceeding on August 5, 2022. The Respondent did not comment on the language of the proceeding.

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 in English and Vietnamese of the Complaint, and the proceedings commenced on August 8, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 28, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 29, 2022.

The Center appointed Pham Nghiem Xuan Bac as the sole panelist in this matter on August 31, 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 provider of information solutions and human resources business process outsourcing services for businesses, governments, and consumers, originally incorporated in 1913 in the United States. The Complainant operates or has investments in 24 countries in North America, Central and South America, Europe, and the Asia Pacific region, with approximately 11,000 employees around the world.

The Complainant holds some registered trademarks that consist of or contain the word “Equifax” (the “EQUIFAX trademark”) in many jurisdictions worldwide, including, but not limited to United States Registration No. 1027544 registered on December 16, 1975, in Class 36; and International Registration No. 1403543 (EQUIFAX IGNITE) registered on February 14, 2018, in Classes 36 and 42. As shown in the United States Registration No. 1027544, the EQUIFAX trademark was first used in commerce in the United States in 1975.

In addition, the Complainant is the owner of numerous domain names featuring the EQUIFAX trademark, including, but not limited to, <equifax.com> registered on February 21, 1995.

The Disputed Domain Name was registered on June 1, 2006. As of the date of this Decision, the Disputed Domain Name resolves to a parking page containing sponsored pay-per-click (PPC) links to various third parties’ contents, including those associated with information solutions and financial services.

5. Parties’ Contentions

A. Complainant

The Complainant contends that each of the three elements specified in paragraph 4(a) of the Policy are satisfied in the present case, as follows:

(i) The Disputed Domain Name is identical or confusingly similar to a trademark or service mark, in which the Complainant has rights.

First, the Complainant asserts that the Complainant holds at least 221 registrations for EQUIFAX trademark in approximately 56 jurisdictions worldwide. Further, the Complainant contends that it has rights in and to the EQUIFAX trademark as recognized by numerous UDRP panels in the past.

Second, the Complainant argues that the Disputed Domain Name is confusingly similar to the EQUIFAX trademark owned by the Complainant because the Disputed Domain Name incorporates the Complainant’s distinguished EQUIFAX trademark in its entirety, and the simple addition of the letter “y” and deletion of the letter “i” in the middle of the Disputed Domain Name clearly indicate typosquatting and would not eliminate confusing similarity with the EQUIFAX trademark.

Furthermore, the Complainant submits that the overall impression of the designation of the Disputed Domain Name is one of being connected to the EQUIFAX trademark.

Finally, the Complainant submits that the generic Top-Level Domain (“gTLD”) “.com” is disregarded under the first element confusing similarity test as it is viewed as a standard registration requirement.

(ii) The Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

First, the Complainant contends that it has never assigned, granted, licensed, sold, transferred or in any way authorized the Respondent to register or use the EQUIFAX trademark in any manner.

Second, the Complainant argues that there is no evidence that the Respondent has used or prepared to use the Disputed Domain Name in connection with a *bona fide* offering of goods or services, since the Disputed Domain Name is in connection with a parked page with PPC links. In addition, the Respondent is not making a legitimate noncommercial of the Disputed Domain Name.

Third, the Complainant contends that the Respondent has not ever been known by the Disputed Domain Name, given the fact that the Complainant has used the EQUIFAX trademark for 47 years. Moreover, the Respondent has never acquired any trademark or service mark rights in the Disputed Domain Name.

(iii) The Disputed Domain Name was registered and is being used in bad faith.

First, the Complainant argues an indication of bad faith is the fact that its earliest EQUIFAX trademark registration and use predate the registration of the Disputed Domain Name by approximately 31 years, and the Complainant has accrued substantial goodwill, and international recognition in its EQUIFAX trademark. By using the Disputed Domain Name, the Respondent is clearly creating a likelihood of confusion with the famous or widely-known EQUIFAX trademark, constituting bad faith.

Second, the Complainant submits that the Respondent should have been aware of the Complainant's EQUIFAX trademark at the time of registration of the Disputed Domain Name. In addition, given the long history of the Complainant's EQUIFAX trademark, the global reach and popularity of the Complainant's services under the EQUIFAX trademark as well as the Disputed Domain Name's similarity to the Complainant's own domain name <equipax.com>, the Respondent must have been aware of the Complainant and its EQUIFAX trademark, and that the registration of the Disputed Domain Name which is so obviously connected with the Complainant suggests opportunistic bad faith

Third, the Complainant states that using the Disputed Domain Name in connection with the monetized parking page constitutes bad faith even if the Respondent was unaware of the said monetized parking page.

With the said arguments, the Complainant requests that the Disputed Domain Name be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

A. Procedural Issues

(I) Language of the Proceeding

The Complaint was filed in English. However, the Registrar confirmed that the language of the Registration Agreement is Vietnamese.

As the Complaint was filed in English, the Center, in its email of language of proceeding dated August 2, 2022, invited the Complainant to submit either (i) satisfactory evidence of an agreement between the Complainant and the Respondent to the effect that the proceeding should be in English, or (ii) the Complaint translated into Vietnamese, or (iii) a substantiated request for English to be the language of the proceeding by August 5, 2022.

On August 5, 2022, the Complainant submitted a request that English be the language of the proceeding.

According to paragraph 11(a) of the Rules, unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

Similar to previous UDRP decisions, the Panel finds that the spirit of paragraph 11(a) is to ensure fairness in the selection of language by giving full consideration to the Parties' level of comfortability with each language, the expenses to be incurred, and the possibility of delay in the proceeding in the event translations are required and other relevant factors (see, e.g., *Deutsche Messe AG v. Kim Hyungho*, WIPO Case No. [D2003-0679](#)).

In the present case, the Panel takes into account the circumstances of the proceeding, including, but not limited to:

- (i) the fact that the Complainant, an American entity, does not appear to be able to communicate in Vietnamese, and therefore, if the Complainant was required to have the documents translated into Vietnamese, the proceeding would be unduly delayed, and the Complainant would have to incur substantial expenses for translation;
- (ii) the English language is quite popular in Viet Nam, where the Respondent appears to be located, and the Disputed Domain Name and its associated website contain English content. These suggest that the Respondent has knowledge of the English language and would be able to communicate in English; and
- (iii) the Respondent did not object to English being the language of the proceeding and did not submit a Response in either English or Vietnamese.

Therefore, for easy comprehension of the Complainant (ultimately, the Party solely taking part in the proceeding) of the Panel's decision without any necessity of translations, and in the interest of fairness to both Parties as well as the Panel's obligation under paragraph 10(c) of the Rules, which provides that "the Panel shall ensure that the administrative proceeding takes place with due expedition", the Panel hereby decides, under paragraph 11(a) of the Rules, that the language of the proceeding shall be English and shall render its decision in English.

(II) The Respondent's Identity

The Panel notes that at the time the Complaint was filed on July 26, 2022, the Respondent was identified as "REDACTED FOR PRIVACY". On August 2, 2022, the Registrar transmitted by email to the Center, disclosing the underlying registrant as "Nguyễn Văn Lư" in their verification response to the request of the Center. The Center sent an email communication to the Complainant on August 2, 2022, providing the information disclosed by the Registrar and invited the Complainant to submit an amendment to the Complaint. On August 4, 2022, the Complainant transmitted an email to the Center, affirmatively replying that the Complainant did not wish to make substantive amendments to the Complaint but did wish to add the registrar-provided registrant information, namely "Nguyễn Văn Lư" as the underlying registrant to the Complaint. The Panel finds it is reasonable and will treat "Nguyễn Văn Lư" as the Respondent for purposes of this proceeding.

(III) Delay in bringing the Complaint

The Panel finds that the Disputed Domain Name was registered on June 1, 2006, but the Complaint was not filed with the Center until July 26, 2022. In considering this delay of over 16 years in challenging the Respondent's registration of the Disputed Domain Name, the Panel is of the same view as those in previous UDRP decisions mentioned in section 4.17 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), which held that "panels have widely recognized that mere

delay between the registration of a domain name and the filing of a complaint neither bars a complainant from filing such case, nor from potentially prevailing on the merits". However, similar to previous decisions, the Panel has taken into account this delay when considering the second and third elements requiring the Complainant to establish that the Respondent lacks rights or legitimate interests and that the Respondent has registered and used the Disputed Domain Name in bad faith (see, e.g., *CeltonManx Limited v. Pham Dinh Nhut*, WIPO Case No. [D2014-0109](#)).

(IV) The Respondent's Failure to Respond

The Respondent's failure to file a Response does not automatically result in a decision in favor of the Complainant (see, e.g., *Tradewind Media, LLC d/b/a Intopic Media v. Jayson Hahn*, WIPO Case No. [D2010-1413](#), and *M. Corentin Benoit Thiercelin v. CyberDeal, Inc.*, WIPO Case No. [D2010-0941](#)). However, the Panel may draw appropriate inferences from the Respondent's default.

B. Identical or Confusingly Similar

The Complainant is required to establish the two following elements: (i) that it has trademark rights, and, if so, (ii) that the Disputed Domain Name is identical or confusingly similar to its trademark.

First, the Panel is convinced that the Complainant had registered trademark rights to EQUIFAX well before the Disputed Domain Name was registered.

Second, the Panel finds that the Disputed Domain Name differs from the Complainant's EQUIFAX trademark merely by replacing the letter "i" with the letter "y", and substituting the order of the third and fourth letters. In accordance with section 1.9 of the [WIPO Overview 3.0](#), 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. Thus, the omitting and adding of the above listed letters does not prevent a finding of confusing similarity between the Disputed Domain Name and the EQUIFAX trademark. In the Panel's view, "eqyufax" is confusingly similar to the Complainant's EQUIFAX trademark in terms of structure, presentation, and pronunciation.

In addition, given the wide use of the EQUIFAX trademark by the Complainant around the world for a lengthy period, the Panel opines that this case appears to be a typical case of a deliberate misspelling of a trademark (so-called "typosquatting"), by omitting, adding, or substituting the order of letters of a trademark, where numerous UDRP panels in the past have found confusing similarity to be present (see, e.g., *Yurtici Kargo Servisi A.S. v. Yurticikargo Yurticikargo*, WIPO Case No. [D2003-0707](#); *CareerBuilder, LLC v. Azra Khan*, WIPO Case No. [D2003-0493](#); *The Sportsman's Guide, Inc. v. Vipercom*, WIPO Case No. [D2003-0145](#); *Neuberger Berman Inc. v. Alfred Jacobsen*, WIPO Case No. [D2000-0323](#)).

Third, the Panel finds, similarly to other UDRP panels, that the addition of the gTLD ".com" to the Disputed Domain Name does not constitute an element to avoid confusing similarity for the Policy purposes (see, e.g., *Volkswagen AG v. Privacy Protection Services*, WIPO Case No. [D2012-2066](#); *The Coca-Cola Company v. David Jurkiewicz*, WIPO Case No. [DME2010-0008](#); *Telecom Personal, S.A., v. NAMEZERO.COM, Inc.*, WIPO Case No. [D2001-0015](#); *F. Hoffmann La Roche AG v. Macalve e-dominios S.A.*, WIPO Case No. [D2006-0451](#); *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

Based on the foregoing findings, the Panel finds that the Disputed Domain Name is confusingly similar to the EQUIFAX trademark, and paragraph 4(a)(i) of the Policy is established.

C. Rights or Legitimate Interests

Paragraph 4(c) of the Policy lists circumstances, in particular, but without limitation, which, if found by the Panel to be proved, demonstrate the Respondent's rights or legitimate interests in the Disputed Domain Name for the purposes of paragraph 4(a)(ii) of the Policy, including:

“(i) before any notice to you of the dispute, your 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) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or

(iii) you are 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.”

The Panel finds that the Complainant has made a *prima facie* case that the Respondent has no rights or legitimate interests in the Disputed Domain Name. The Respondent did not reply to the Complainant's contentions and, therefore, did not refute them.

The consensus of previous UDRP decisions is that while the overall burden of proof in UDRP proceedings is on the complainant, once a *prima facie* case is made, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating its rights or legitimate interests in the Disputed Domain Name (see, e.g., *Document Technologies, Inc. v. International Electronic Communications Inc.*, WIPO Case No. [D2000-0270](#); *Julian Barnes v. Old Barn Studios*, WIPO Case No. [D2001-0121](#)). In this instant case, the Panel finds that the Respondent has failed to meet that burden since no response was submitted with evidence to the contrary.

Regarding paragraph 4(c)(i) of the Policy, the Panel finds, in light of the Complainant's asserted facts, that no license, permission or authorization of any kind to use the Complainant's trademark has been granted to the Respondent. There is no evidence available that the Respondent holds any registered or unregistered trademark rights in any jurisdiction related to either EQUIFAX trademark or the Disputed Domain Name. Thus, the Panel is satisfied that the Respondent has no rights in the EQUIFAX trademark.

The Complainant submitted relevant evidence showing that the Disputed Domain Name resolves to a parked page with PPC links that redirect Internet users to other online locations. In this regard, section 2.9 of the [WIPO Overview 3.0](#) holds 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”. In this instant case, as of the date of this Decision, upon accessing the website under the Disputed Domain Name, the Panel finds that some of the PPC links thereon are referring to, among others, services that are competing with the Complainant. Hence, in light of foregoing viewpoint and similarly to a number of well-established prior UDRP decisions, the Panel upholds that operating PPC parking page using a trademark and providing connection to goods and/or services competitive with the trademark owner, does not establish *bona fide* offering of goods or services (see, e.g., *Virgin Enterprises Limited v. LINYANXIAO aka lin yanxiao*, WIPO Case No. [D2016-2302](#); *Merck Sharp & Dohme Corp. v. Domain Administrator, PrivacyGuardian.org / George Ring, DN Capital Inc.*, WIPO Case No. [D2017-0302](#); *Archer-Daniels-Midland Company v. Wang De Bing*, WIPO Case No. [D2017-0363](#)).

Regarding paragraph 4(c)(ii) of the Policy, the Panel finds no evidence showing that the Respondent has been commonly known by the Disputed Domain Name despite the quite long period since its registration. This finding is substantiated by the fact that there is no evidence showing that the Respondent operates any *bona fide* business or organization under the Disputed Domain Name other than using the Disputed Domain Name to resolve to the parking page containing sponsored PPC links to various third parties' contents. Therefore, it is not evidenced that the Respondent is identified by “eqyufax” or that it has any rights in it.

Regarding paragraph 4(c)(iii) of the Policy, the Panel finds no evidence that the Respondent is making any noncommercial or fair use of the Disputed Domain Name. In fact, following the Complainant's assertions and evidence regarding the Respondent's registration of the Disputed Domain Name, it is more likely than not that the Respondent had been aware of the EQUIFAX trademark and intended to gain profit by riding on the goodwill and reputation of the Complainant.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests regarding the Disputed Domain Name, and the second element, paragraph 4(a)(ii) of the Policy, is established.

D. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy identifies, in particular, but without limitation, four circumstances which, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith, including:

“(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration 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 your documented out-of-pocket costs directly related to the domain name; or

(ii) you have 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 you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location.”

The above four circumstances are not exhaustive, and the Panel may find bad faith alternatively.

The Panel finds that the Complainant has put forth evidence that the Respondent has registered and used the Disputed Domain Name in bad faith. The Respondent did not reply to the Complainant’s contentions and, therefore, did not refute the Complainant’s contentions.

The Panel has considered the Complainant’s assertions and evidence concerning the Respondent’s bad faith registration and use of the Disputed Domain Name. In this regard, the Panel finds that the Complainant’s EQUIFAX trademark has been registered in a variety of jurisdictions worldwide. In addition, the EQUIFAX trademark has been put in use for a long period of time and has gained a certain reputation in the sector of providing information solutions and human resources business process outsourcing services for businesses, governments, and consumers in numerous countries. The Disputed Domain Name was registered about 31 years after the Complainant’s trademark were first registered and use, and about 11 years after the Complainant’s <equifax.com> domain name was registered.

Further, the Disputed Domain Name in fact incorporates typographical errors of the EQUIFAX trademark, the only difference is the replacement of the letter “i” with the letter “y” and the substitution of the order of the third and fourth letters. Given the fact that the forming term “eqyufax” has no dictionary meaning in English, and the extensive use of the EQUIFAX trademark by the Complainant in numerous countries, the Panel finds no plausible explanation that the Respondent registered the Disputed Domain Name without prior knowledge of the existence of the Complainant and the EQUIFAX trademark. Instead, in consideration of the use of the Disputed Domain Name resolving to the parked page with some PPC links are referring to the services of the Complainant’s competitors, it is likely that the Respondent obviously knew of the Complainant and its EQUIFAX trademark before registering the Disputed Domain Name, and the Panel considers such registration is an attempt by the Respondent as to benefit from typographical errors by Internet users searching for the Complainant, which is indicative of bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

Moreover, the Panel finds that the Respondent has no rights or legitimate interests in the Disputed Domain Name. In the Panel's view, registration of a domain name, in which a respondent has no rights or legitimate interests coupled with no credible explanation for the Respondent's choice of the domain name, may be considered as bad faith.

On the date of this Decision, the Panel accesses the Disputed Domain Name and finds that it is resolving to the PPC parking page, where some of the PPC links are referring to the services of the Complainant's competitor. With all these facts and findings, the Panel opines that by using the Disputed Domain Name in this manner, the Respondent has intentionally attempted to attract Internet users to its website and generate income from such PPC links by creating a likelihood of confusion with the Complainant's EQUIFAX trademark as to the source, sponsorship, affiliation or endorsement of its website on its website, which is indicative of bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

In addition, the Panel finds that the bad faith registration and use of the Disputed Domain Name is also affirmed by the Respondent's pattern of conduct. In fact, the Respondent, Nguyễn Văn Lư, is a serial cybersquatter who was involved in a pattern of several cybersquatting cases of domain name disputes, namely, *Thi Factory S.A. v. Vietnam Domain Privacy Services, Nguyễn Văn Lư*, WIPO Case No. [D2019-2596](#); *Squarespace, Inc. v. April Sea Information Technology Company Ltd. / Nguyễn Văn Lư*, WIPO Case No. [D2019-3064](#); *Skyscanner Limited v. Nguyễn Văn Lư*, WIPO Case No. [D2020-0672](#); *xHamster IP Holdings Ltd v. Nguyễn Văn Lư*, WIPO Case No. [D2020-3163](#); *CenterPoint Energy, Inc. v. Nguyễn Văn Lư*, WIPO Case No. [D2020-3300](#); *Hillsong Church Inc. v. Nguyễn Văn Lư*, WIPO Case No. [D2021-0368](#); and *National Collegiate Athletic Association v. Nguyễn Văn Lư*, WIPO Case No. [D2021-4050](#).

Taking into account all of the above, the Panel finds that the Disputed Domain Name was registered and is being used by the Respondent in bad faith under paragraph 4(b) of the Policy, and the third element under paragraph 4(a) of the Policy is established.

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 <eqyufax.com> be transferred to the Complainant.

/Pham Nghiem Xuan Bac/

Pham Nghiem Xuan Bac

Sole Panelist

Date: September 14, 2022