

ADMINISTRATIVE PANEL DECISION

Equifax Inc. v. 徐海民 (xuhaimin)

Case No. D2023-0162

1. The Parties

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

The Respondent is 徐海民 (xuhaimin), China.

2. The Domain Name and Registrar

The disputed domain name <equifax.com> is registered with DNSPod, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on January 12, 2023. On January 13, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on January 20, 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 in English on January 20, 2023.

On January 20, 2023, the Center transmitted another email communication to the Parties in English and Chinese regarding the language of the proceeding. On the same day, the Complainant submitted its request that English be the language of the proceeding. 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 Chinese and English of the Complaint, and the proceedings commenced on January 26, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 15, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 16, 2023.

The Center appointed Jonathan Agmon as the sole panelist in this matter on February 27, 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. The Complainant was in the state of Georgia, USA in 1913, and its predecessor company dates back to 1899.

It is currently headquartered in Atlanta, Georgia, USA and operates or has investments in 24 countries across the world. The Complainant stock is traded on the New York Stock Exchange. It employs approximately 11,000 people worldwide.

The Complainant is the owner of at least 221 EQUIFAX word and figurative trademarks in the USA and around the world, including but not limited to:

- USPTO Registration No. 1027544 for EQUIFAX, registered on December 16, 1975;
- USPTO Registration No. 1045574 for EQUIFAX, registered on August 3, 1976
- USPTO Registration No. 1644585 for EQUIFAX registered on May 14, 1991;

The Complainant also states that it registered the domain name <equifax.com> on February 21, 1995.

The disputed domain name was registered on March 24, 2000 and resolves to a website with pay-per-click (PPC) links.

5. Parties' Contentions

A. Complainant

The Complainant argues that the disputed domain name is confusingly similar to the Complainant's registered EQUIFAX mark as the Respondent has intentionally registered a confusingly similar domain name that incorporates the Complainant's mark in its entirety and has a single letter typo.

The Complainant also argues that the Respondent lacks any rights or legitimate rights in the marks or domain name as it has not licensed or permitted the Respondent to use any of its trademarks or register the disputed domain name and that the Respondent registered and continues to use the domain name in bad faith.

B. Respondent

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

6. Discussion and Findings

6.1 Language of the Proceeding

Paragraph 11 of the Rules provides that:

“(a) Unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative 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.”

The language of the Registration Agreement for the disputed domain name is Chinese.

The Complainant requested that the language of the proceeding be English for the following main reasons:

- (i) the Complainant and its representatives are unable to communicate in the Chinese language;
- (ii) translating the Complaint into Chinese would cause an undue burden on the Complainant and unnecessarily delay the proceeding; and
- (iii) the disputed domain name consists only of English letters and all the content on the website to which the disputed domain name resolves is in the English language.

The Respondent did not comment on the language of the proceeding.

The Panel cites the following with approval: “Thus, the general rule is that the parties may agree on the language of the administrative proceeding. In the absence of this agreement, the language of the Registration Agreement shall dictate the language of the proceeding. However, the Panel has the discretion to decide otherwise having regard to the circumstances of the case. The Panel’s discretion must be exercised judicially in the spirit of fairness and justice to both parties taking into consideration matters such as command of the language, time, and costs. It is important that the language finally decided by the Panel for the proceeding is not prejudicial to either one of the parties in his or her abilities to articulate the arguments for the case”. (See *Groupe Auchan v. xmxzl*, WIPO Case No. [DCC2006-0004](#)).

Having considered the above factors, the Panel determines that English should be the language of the proceeding. The Panel notes that the disputed domain name resolves to a website in English, that the Respondent has not participated in this proceeding, and that all of the Center’s communications with the Parties have been sent in English and Chinese. The Panel also needs to ensure the proceeding is conducted in a timely and cost-effective manner. In addition, in the absence of an objection by the Respondent, the Panel does not find it procedurally efficient to have the Complainant translate the Complaint into Chinese.

6.2 Substantive Issues

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. The Complainant has provided evidence that it owns the EQUIFAX mark.

The disputed domain name comprises the Complainant’s EQUIFAX mark in its entirety with a typo which replaces the letter “i” with the letter “o” and the generic Top-Level Domain (“gTLD”) “.com”. 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. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.9.

Further, it is well established that the adding of the gTLD ".com", as a standard registration requirement, is disregarded under the first element confusing similarity test ([WIPO Overview 3.0](#), section 1.11.1).

Therefore, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights and the element under paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

Once the complainant establishes a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name, the burden of production shifts to the respondent to show that it has rights or legitimate interests in respect to the disputed domain name (see [WIPO Overview 3.0](#), section 2.1).

In the present case, the Complainant has demonstrated *prima facie* that the Respondent lacks rights or legitimate interests in respect of the disputed domain name and the Respondent has failed to assert any such rights or legitimate interests.

The Complainant has provided evidence that it owned trademark registrations of the EQUIFAX mark long before the date that the disputed domain name was registered and that it is not affiliated with nor has it licensed or otherwise permitted the Respondent to use the Complainant's trademark (see *LEGO Juris A/S v. DomainPark Ltd, David Smith, Above.com Domain Privacy, Transure Enterprise Ltd, Host master*, WIPO Case No. [D2010-0138](#)).

The Complainant also provided evidence that the Respondent is not commonly known by the disputed domain name (see [WIPO Overview 3.0](#), section 2.3).

The Complainant's evidence comprises a screenshot of a website showing PPC links. Panels have 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. In this case, the PPC links appear to compete or capitalize on the reputation or goodwill of the Complainant.

Further, the Respondent did not submit a Response in the present case and did not provide any explanation or evidence to show rights or legitimate interests in the disputed domain name which would be sufficient to rebut the Complainant's *prima facie* case.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

B. Registered and Used in Bad Faith

The complainant must show that the respondent registered and is using the domain name in bad faith (Policy, paragraph 4(a)(iii)). Paragraph 4(b) of the Policy provides circumstances that may evidence bad faith under paragraph 4(a)(iii) of the Policy.

The Complainant has submitted evidence that the Respondent registered the disputed domain name a very long time after the Complainant registered its EQUIFAX trademark. Given that the Complainant's trademarks have been registered for a long time, it is highly unlikely that the Respondent did not know of the Complainant and its EQUIFAX marks prior to the registration of the disputed domain name. The disputed domain name incorporates the Complainant's EQUIFAX mark in its entirety with the replacement of the letter "i" with "o" in the mark.

Given the circumstances of this case, the Panel finds an attempt by the Respondent to confuse and/or mislead Internet users seeking or expecting the Complainant's website. Previous UDRP panels have ruled that in such circumstances "a likelihood of confusion is presumed, and such confusion will inevitably result in the diversion of Internet traffic from the Complainant's site to the Respondent's site" (see *Edmunds.com, Inc v. Triple E Holdings Limited*, WIPO Case No. [D2006-1095](#)).

The Complainant has also submitted evidence that the disputed domain name resolves to a parking page which contains PPC links which appear to redirect Internet users to third party websites which offer related and competing services to those of the Complainant. Such use is another indication of the Respondent's bad faith registration and use of the disputed domain name.

Based on the circumstances of the particular case, it is the Panel's view that it is unlikely that the Respondent registered the disputed domain name without sight and knowledge of the Complainant's marks, and it is implausible that there is any good faith use to which the disputed domain name may be put to. It is clear to the Panel that the Respondent specifically targeted the Complainant and its marks and registered the disputed domain name to divert Internet traffic and benefit commercially from unsuspecting Internet users seeking out the Complainant.

It is also the Complainant's evidence that the Respondent could not have registered the disputed domain name without prior knowledge of the Complainant's marks. This is another indication of bad faith on the part of the Respondent (see *Boursorama SA v. Estrade Nicolas*, WIPO Case No. [D2017-1463](#)).

The Respondent did not submit a Response in this proceeding which is a further indication of the Respondent's bad faith, which was considered by the Panel.

Based on the evidence presented to the Panel, including the confusing similarity between the disputed domain name and the Complainant's mark, the fact that the disputed domain name is used to redirect Internet users to a website which offers competing services to those of the Complainant, the fact that no Response was submitted by the Respondent in response to the Complaint, the Panel draws the inference that the disputed domain name was registered and is being 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 <equofax.com> be transferred to the Complainant.

/Jonathan Agmon/

Jonathan Agmon

Sole Panelist

Date: March 12, 2023