

ADMINISTRATIVE PANEL DECISION

Equifax Inc. v. DNS Admin, Buntai LTD

Case No. D2023-2714

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, U.S.

The Respondent is DNS Admin, Buntai LTD, Switzerland.

2. The Domain Name and Registrar

The disputed domain name <loginequifax.com> is registered with Key-Systems GmbH (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 23, 2023. On June 26, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 27, 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 (REDACTED FOR PRIVACY) and contact information in the Complaint.

The Center sent an email communication to the Complainant on July 5, 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 amended Complaint also on July 5, 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 July 6, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 26, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 2, 2023.

The Center appointed Christian Gassauer-Fleissner as the sole panelist in this matter on August 4, 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 as well as consumers and *inter alia* offers a credit reporting service that provides consumers with a summary of their credit history, and certain other information, reported to credit bureaus by lenders and creditors. The Complainant was originally incorporated under the laws of the State of Georgia, U.S., 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. Further, the Complainant is a member of Standard & Poor's (S&P) 500 Index, and its common stock is traded on the New York Stock Exchange (NYSE) under the symbol EFX. Moreover, the Complainant employs approximately 11,000 people worldwide.

The Complainant is the owner of several trademarks for EQUIFAX ("EQUIFAX trademark"), including:

- United States Trademark Registration EQUIFAX No. 1,027,544, registered on December 16, 1975;
- United States Trademark Registration EQUIFAX No. 1,045,574, registered on August 3, 1976; and
- United States Trademark Registration EQUIFAX No. 1,644,585, registered on May 14, 1991.

The Complainant is also the owner of the domain name <equifax.com>, created on February 21, 1995.

The disputed domain name was registered on June 8, 2023. The Complainant has provided evidence showing that the disputed domain name resolved to a website in connection with a pay-per-click ("PPC") or monetized parking page that included links for services related to the EQUIFAX trademark, such as "Credit Report", "Experian Credit Report" and "Experian Report." At the time of the decision, the disputed domain name resolves to an inactive website.

5. Parties' Contentions

A. Complainant

On the first element of the Policy, the Complainant claims that the disputed domain name is identical or confusingly similar to the EQUIFAX trademark. The disputed domain name includes the EQUIFAX trademark entirely, simply adding the word "login", and the generic Top-Level Domain ("gTLD") ".com". The EQUIFAX trademark remains recognizable in the disputed domain name and the addition of the word "login" does not prevent a finding of confusing similarity.

On the second element of the Policy, the Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant has never assigned, granted, licensed, sold, transferred or in any way authorized the Respondent to register or use the EQUIFAX trademark in any manner. Further, to the Complainant's knowledge, the Respondent has never been commonly known by the disputed domain name and has never acquired any trademark or service mark rights in the disputed domain name. At least one security vendor has reported that the disputed domain name is being used in connection with malicious activities, according to a report from VirusTotal, a service that analyses files and URLs for viruses, worms, trojans and other kinds of malicious content. Accordingly, the Respondent has not used the disputed domain name in connection with a *bona fide* offering of goods or services and, therefore, cannot establish rights or legitimate interests; nor has the Respondent made a

legitimate non-commercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue and, therefore, cannot establish rights or legitimate interests. Moreover, by using the disputed domain name in connection with a PPC or monetized parking page that includes links for services related to the EQUIFAX trademark, including “Credit Report,” “Experian Credit Report,” and “Experian Report,” the Respondent has failed to create a *bona fide* offering of goods or services and, therefore, the Respondent cannot demonstrate rights or legitimate interests.

On the third element of the Policy, the Complainant asserts that the Respondent registered and used the disputed domain name in bad faith. The mere registration of a domain name that is identical or confusingly similar to a famous or widely known trademark by an unaffiliated entity can by itself create a presumption of bad faith. The EQUIFAX trademark is famous and/or widely known, given that it is protected by at least 221 trademark registrations in at least 56 jurisdictions worldwide, the oldest of which was used and registered 48 years ago. Given the fame of the EQUIFAX trademark, it is implausible that the Respondent was unaware of the Complainant when registering the disputed domain name. The only explanation of what has happened is that the Respondent’s motive in registering and using the disputed domain name seems to be simply to disrupt the Complainant’s relationship with its customers or potential customers or attempt to attract Internet users for potential gain. As stated above, at least one security vendor has reported that the disputed domain name is being used in connection with malicious activities, according to a report from VirusTotal, a service that analyzes files and URLs for viruses, worms, trojans and other kinds of malicious content. This obviously constitutes bad faith by registering the disputed domain name primarily for the purpose of disrupting the business of a competitor and by intentionally attempting to attract, for commercial gain, Internet users by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the Respondent’s product or service.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules requires that the Panel’s decision be made “on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

It has been a consensus view in previous UDRP decisions that a respondent’s default (*i.e.*, failure to submit a response) would not by itself mean that the complainant is deemed to have prevailed; a respondent’s default is not necessarily an admission that the complainant’s claims are true (see section 4.3 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”)).

The Complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the Complaint, namely that:

- (i) the disputed 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 disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant, under the first requirement of paragraph 4(a)(i) of the Policy, needs to establish that the

disputed domain name is identical or confusingly similar to a trademark or a service mark in which it has rights.

Section 1.8 of [WIPO Overview 3.0](#) states: “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 nature of such additional term(s) may however bear on assessment of the second and third elements.” Further, section 1.11.1 of [WIPO Overview 3.0](#) states: “The applicable TLD in a domain name (e.g., ‘.com’, ‘.club’, ‘.nyc’) is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test”.

The Complainant is registered as the owner of several trademarks containing EQUIFAX. Suitable evidence was submitted. Consequently, the Panel finds that the Complainant has proven that it has rights in the EQUIFAX trademark.

The disputed domain name contains the EQUIFAX trademark entirely with the addition of the term “login”, as well as the gTLD “.com”. The gTLD “.com” will be disregarded in the Panel’s consideration of confusing similarity. The Panel finds that the relevant EQUIFAX trademark within the disputed domain name is recognizable, so that the term “login” does not prevent a finding of confusing similarity.

For the reasons above, the Panel finds that the disputed domain name is confusingly similar to the Complainant’s trademarks, and that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The second element the Complainant must prove is that the Respondent has no rights or legitimate interests in the disputed domain name.

Regarding the second element of the Policy, section 2.1 of [WIPO Overview 3.0](#) states, “where a complainant makes out 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 addition, section 2.13.1 of [WIPO Overview 3.0](#) reads: “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.”

In this case, the Respondent did not reply to the Complainant’s contentions. According to the Complaint, the Complainant has not authorized the Respondent to use the EQUIFAX trademark, the Respondent is not commonly known by the disputed domain name, and the Respondent has not used the disputed domain name for a legitimate non-commercial or fair use, nor used it in connection with a *bona fide* offering of goods or services. Further, the Respondent has not attempted to justify why the disputed domain name was registered. Moreover, the Panel finds that the composition of the disputed domain name, adding the term “login” to the EQUIFAX trademark, coupled with the use of the disputed domain name resolving to a website in connection with a PPC or monetized parking page that included links for services related to the EQUIFAX trademark, affirms the Respondent’s intention of taking unfair advantage of the likelihood of confusion between the disputed domain name and the Complainant, as to the origin or affiliation of the website at the disputed domain name. In addition, an illegal activity can be assumed with regard to the disputed domain name. The Complainant has provided evidence, that one security vendor has reported that the disputed domain name is being used in connection with malicious activities, according to a report from VirusTotal, a service that analyzes files and URLs for viruses, worms, trojans and other kinds of malicious content.

Accordingly, the Panel finds that the Complainant has made a *prima facie* showing of the Respondent's lack of rights or legitimate interests in respect of the disputed domain name, which has not been rebutted by the Respondent. The Panel therefore finds that the Complainant has established the second element of the Policy in accordance with paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

The third element of paragraph 4(a) of the Policy requires that the Complainant demonstrate that the Respondent registered and is using the disputed domain name in bad faith.

Section 3.1 of [WIPO Overview 3.0](#) states, "bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark". Section 3.2.2 of the [WIPO Overview 3.0](#) reads: "Noting the near instantaneous and global reach of the Internet and search engines and particularly in circumstances where the complainant's mark is widely known (including in its sector) or highly specific and a respondent cannot credibly claim to have been unaware of the mark (particularly in the case of domainers), panels have been prepared to infer that the respondent knew, or have found that the respondent should have known that its registration would be identical or confusingly similar to a complainant's mark. Further factors including the nature of the domain name, the chosen top-level domain, any use of the domain name, or any respondent pattern, may obviate a respondent's claim not to have been aware of the complainant's mark." Moreover, section 3.4 of the [WIPO Overview 3.0](#) reads "Panels have held that the use of a domain name for purposes other than to host a website may constitute bad faith. Such purposes include sending email, phishing, identity theft, or malware distribution."

Considering the reputation and public presence of the Complainant, it is unlikely that the Respondent had no knowledge of the EQUIFAX trademark. The incorporation of the EQUIFAX trademark within the disputed domain name as well as the fact that the disputed domain resolved to a website in connection with a PPC or monetized parking page that included links for services related to the EQUIFAX trademark, demonstrates the Respondent's actual awareness of and intent to target the Complainant. Moreover, an illegal activity can be assumed with regard to the disputed domain name. The Complainant has provided evidence, that one security vendor has reported that the disputed domain name is being used in connection with malicious activities, according to a report from VirusTotal, a service that analyzes files and URLs for viruses, worms, trojans and other kinds of malicious content. In light of the lack of any rights to or legitimate interests in the disputed domain name by the Respondent and in the absence of any conceivable good faith use, the Panel finds from the present circumstances that the Respondent has intentionally attempted to attract Internet users to its website or affect the commercial activities of the Complainant by creating a likelihood of confusion with the Complainant's trademarks.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(iii) 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 <loginequifax.com> be transferred to the Complainant.

/Christian Gassauer-Fleissner/
Christian Gassauer-Fleissner
Sole Panelist
Date: August 18, 2023