

ADMINISTRATIVE PANEL DECISION

Equifax Inc. v. Domains By Proxy, LLC / William Owusu
Case No. D2022-2101

1. The Parties

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

The Respondent is Domains By Proxy, LLC, United States / William Owusu, United States.

2. The Domain Name and Registrar

The disputed domain name <equifaxcreditscore.org> (the “Domain Name”) is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 9, 2022. On June 10, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On June 10, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on June 13, 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 June 13, 2022. The Respondent sent an email communication on June 13, 2022.¹

The Center verified that the Complaint together with the amendment 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 June 15, 2022. In accordance with the Rules, paragraph 5,

¹ In this email communication, the Respondent stated “I do not own domain anymore. You will reach about 2 years ago about this. Not sure why they still on there. The domain was available when purchased it. I didnt use it for anything. You will probably have contact Godaddy in regards to that.”

the due date for Response was July 5, 2022. The Respondent did not submit a formal Response. On July 11, 2022, the Center informed the Parties that it would proceed to Panel Appointment.

The Center appointed Ellen B. Shankman as the sole panelist in this matter on July 18, 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 company that provides global information solutions and human resources business process outsourcing services for businesses, governments and consumers, including consumer credit information.

The date of the Domain Name registration is July 1, 2017.

The trademark EQUIFAX serves as key brand of the Complainant and is protected as a registered trademark in at least 56 jurisdictions around the world. The Complainant provided evidence of trademark registration for the mark EQUIFAX, United States Trademark Registration No. 1,027,544 (registered on December 16, 1975), for use in connection with “insurance risk information reporting services concerning potential policy holders” that predates the date of the Domain Name registration. The Complainant claims that it has spent a considerable amount of time and money protecting its intellectual property rights, and has used the mark in commerce since as early as 1913. In addition, the Complainant is the registrant of the domain name <equifax.com>, which was created on February 21, 1995. The Complainant uses the domain name <equifax.com> in connection with its primary website.

The Respondent uses the Domain Name in connection with a website that says it “may be for sale”. The Panel conducted an independent inquiry to confirm that the Domain Name currently still offers the Domain Name for sale.

5. Parties’ Contentions

A. Complainant

The Complaint contends that the Complainant is a leading global provider of information solutions and human resources business process outsourcing services for businesses, governments and consumers. The Complainant was originally incorporated under the laws of the State of Georgia (USA) in 1913, and its predecessor company dates back to 1899. Headquartered in Atlanta, Georgia (USA), the Complainant operates or has investments in 24 countries in North America, Central and South America, Europe and the Asia Pacific region, and employs approximately 11,000 individuals worldwide. Among its many services, the Complainant 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 Domain Name was created 42 years after the Complainant first used and registered the EQUIFAX Trademark and 22 years after the Complainant registered the domain name <equifax.com>. The Domain Name is identical or confusingly similar to the Complainant’s trademark. The Top-Level Domain (“TLD”) “.org” should be disregarded under the first element confusingly similar test. The second-level portion of the Domain Name contains the EQUIFAX trademark in its entirety, simply adding the words “credit” and “score” at the end, which describe services associated with the EQUIFAX Trademark.

The Respondent has no rights or legitimate interests in the 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. By using the Domain Name in connection with a website that says it

“may be for sale,” the Respondent has failed to create a *bona fide* offering of goods or services under the Policy – and, therefore, the Respondent cannot demonstrate rights or legitimate interests in the Domain Name.

The Domain Name should be considered as having been registered and used in bad faith by the Respondent. The Complaint contends that the mark is famous or widely-known and that it is implausible that the Respondent was unaware of the Complainant when it registered the Domain Name, and that the Domain Name was simply to disrupt the Complainant’s relationship with its customers or potential customers or attempt to attract Internet users for potential gain. Because the Domain Name is “so obviously connected with” the Complainant, the Respondent’s actions suggest “opportunistic bad faith” in violation of the Policy. Bad faith also exists under the well-established doctrine of “passive holding”.

Further, by offering to sell the Domain Name, the Respondent has clearly registered it “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,” further establishing bad faith.

To summarize the Complaint, the Complainant is the owner of registration for the trademark EQUIFAX, in respect of credit report services. The Domain Name is confusingly similar to the trademark owned by the Complainant. By registering the Domain Name that comprises the Complainant’s EQUIFAX trademark in its entirety, with the mere addition of the terms “credit” and “score”, as well as the TLD “.org”, the Respondent has created a Domain Name that is confusingly similar to the Complainant’s trademark. As such, the Respondent has demonstrated a knowledge of and familiarity with the Complainant’s brand and business. The addition of the descriptive terms does not prevent a finding of confusing similarity. Therefore, the Domain Name could be considered virtually identical and/or confusingly similar to the Complainant’s trademark. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the Domain Name. The Domain Name was registered and is being used in bad faith. The current “offer for sale” use of the Domain Name does not present a finding of registration and use in bad faith. Thus, the Respondent’s registration and use of the Domain Name constitutes bad faith registration and use under the Policy, and the Complainant requests transfer of the Domain Name.

B. Respondent

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

6. Discussion and Findings

The burden for the Complainant under paragraph 4(a) of the Policy is to prove:

- (i) the Domain Name registered by the Respondent 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 respect of the Domain Name; and
- (iii) the Domain Name has been registered and used in bad faith.

The Complainant must prove in this administrative proceeding that each of the aforementioned three elements is present in order to obtain the transfer of the Domain Name.

In accordance with paragraph 14(a) of the Rules, if the Respondent does not submit a Response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the Complaint. Since the Respondent did not respond to this Complaint, the supported facts regarding the use and reputation of the Complainant’s mark taken from the Complaint are generally accepted as true in the circumstances of this case.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has satisfactorily proven that it has registered trademark rights for EQUIFAX. This is also consistent with the decisions of other panels, see *e.g. Equifax Inc. v. WhoisGuard, Inc. / Dress Rweesss*, WIPO Case No. [D2018-2309](#) (transfer of <equifax.fun>).

Further, the Panel finds that the Domain Name integrates the Complainant's mark EQUIFAX in its entirety with the addition of the terms "credit" and "score" (services associated with the Complainant) and that the Domain Name is confusingly similar to the Complainant's trademark. Further, the Panel finds that the mere addition of the terms to the Domain Name, together with the TLD ".org", does not prevent a finding of confusing similarity between the Domain Name and the Complainant's trademark. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), sections 1.8 and 1.11. See also *Pfizer Inc. v. Asia Ventures, Inc.*, WIPO Case No. [D2005-0256](#) and *Ansell Healthcare Products Inc. v. Australian Therapeutics Supplies Pty, Ltd.*, WIPO Case No. [D2001-0110](#).

Accordingly, the Panel finds that the Complainant has satisfied the first requirement that the Domain Name is identical or confusingly similar to the Complainant's registered trademark, under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy in turn identifies three non-exclusive means through which a respondent may establish rights or legitimate interests in a domain name. Although the complainant bears the ultimate burden of establishing all three elements of paragraph 4(a) of the Policy, panels have recognized that this could result in the often-impossible task of proving a negative, requiring information that is primarily, if not exclusively, within the knowledge of the respondent. Thus, the consensus view is that paragraph 4(c) shifts the burden of production to the respondent to come forward with evidence of rights or legitimate interests in the disputed domain name, once the complainant has made a *prima facie* showing. See, *e.g., Document Technologies, Inc. v. International Electronic Communications Inc.*, WIPO Case No. [D2000-0270](#).

The Complainant asserts that the Respondent has no rights or legitimate interests in respect of the Domain Name and that it is not related to or affiliated in any way with the Complainant, nor has the Complainant authorized the Respondent to use its trademarks, and is not using the Domain Name for a *bona fide* offering of goods or services nor making a legitimate noncommercial or fair use of the Domain Name. The fact that the Domain Name currently resolves to an inactive page with an offer to sell the Domain Name does not change this.

Based on the available record, the Panel finds that the Complainant has established a *prima facie* case, which was not refuted by the Respondent, and that the Respondent lacks rights or legitimate interests in the Domain Name.

Therefore, the Complainant has satisfied the second requirement that the Respondent has no rights or legitimate interests in the Domain Name, under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds it is more likely than not that the Respondent had knowledge of the EQUIFAX trademark and that registration of the Domain Name would be identical or confusingly similar to the Complainant's trademark. Based on the evidence provided, the Panel finds that it is implausible that there could be any legitimate use of the inherently misleading Domain Name. In light of and on balance of the facts set forth within this Complaint, the Panel finds that it is more likely than not that the Respondent knew of and targeted the Complainant's trademark. The Panel agrees with the Complainant's contention that indeed, the Respondent's purpose in registering the Domain Name was probably to unfairly capitalize on the reputation of the Complainant's trademarks.

By registering the Domain Name that comprises the Complainant's EQUIFAX trademark in its entirety, with the mere addition of the terms "credit" and "score" (services associated with the Complainant) the Respondent has demonstrated a knowledge of and familiarity with the Complainant's brand and business. In light of the facts set forth within this Complaint, the Panel finds that it is "not possible to conceive of a plausible situation in which the Respondent would have been unaware of" the Complainant's brand at the time the Domain Name was registered. See *Telstra Corporation Limited. v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#). Further, "it defies common sense to believe that the Respondent coincidentally selected the precise domain without any knowledge of the Complainant and its trademarks." See *Asian World of Martial Arts Inc. v. Texas International Property Associates*, WIPO Case No. [D2007-1415](#).

Furthermore, the Respondent uses the Domain Name in connection with a website that says it "may be for sale". If one considers this use of the Domain Name as inactive use, the lack of current active use and/or the doctrine of "passive holding" of the Domain Name does not prevent a finding of bad faith in the circumstances of this case. See [WIPO Overview 3.0](#), section 3.3. In that regard, the reputation of the Complainant's trademarks, the choice of additional terms in the Domain Name, the failure of the Respondent to provide any evidence of actual or contemplated good faith use, and the implausibility of any good faith use to which the inherently misleading Domain Name could be put, support a finding of bad faith.

In addition, the Panel notes that, at the time of initial filing of the Complaint, a privacy service masked the registrant identity, which past panels have held serves as further evidence of bad faith. See *Dr. Ing. H.C. F. Porsche AG v. Domains by Proxy, Inc.*, WIPO Case No. [D2003-0230](#). See also [WIPO Overview 3.0](#), section 3.6 ("Panels have also viewed a respondent's use of a privacy or proxy service which is known to block or intentionally delay disclosure of the identity of the actual underlying registrant as an indication of bad faith.").

In light of the above, the Panel finds that the Complainant has satisfied the third requirement that the Respondent has registered and is using the Domain Name in bad faith, under 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 Domain Name <equifaxcreditscore.org> be transferred to the Complainant.

/Ellen B Shankman/

Ellen B Shankman

Sole Panelist

Date: August 1, 2022