

ADMINISTRATIVE PANEL DECISION

Equifax Inc. v. Domain Admin, Whois Privacy Corp.
Case No. D2022-3929

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 Domain Admin, Whois Privacy Corp., Bahamas.

2. The Domain Name and Registrar

The disputed domain name <equifax.com> is registered with Internet Domain Service BS Corp (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 19, 2022. On October 20, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 21, 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 sent an email communication to the Complainant on October 24, 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 the same date

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 November 1, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 21, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 23, 2022.

The Center appointed Luca Barbero as the sole panelist in this matter on November 30, 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. Headquartered in Atlanta, United States, the Complainant operates or has investments in 24 countries in North America, Central and South America, Europe and the Asia Pacific region, employing approximately 11,000 people worldwide.

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 under the symbol EFX. Among its 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 Complainant has provided evidence of ownership of trademarks consisting of, or comprising EQUIFAX, including the following:

- United States trademark registration No. 1027544, for EQUIFAX (word mark), filed on March 10, 1975, and registered on December 16, 1975, in international class 36;
- United States trademark registration No. 1045574, for EQUIFAX (word mark), filed on July 9, 1975, and registered on August 3, 1976, in international class 35;
- United States trademark registration No. 1644585, for EQUIFAX (word mark), filed on February 9, 1990, and registered on May 14, 1991, in international classes 35, 36, and 42.

The Complainant is also the owner of the domain name <equifax.com>, which was registered on February 21, 1995, and is used by the Complainant to promote its services under the trademark EQUIFAX.

The disputed domain name was registered on January 14, 2017, and is currently not pointed to an active website. According to the screenshot submitted as annex 7 to the Complaint – which has not been contested by the Respondent – the disputed domain name previously resolved to a parking page with pay-per-click links related to the Complainant's market niche, including references to "Credit Report".

5. Parties' Contentions

A. Complainant

The Complainant submits that the disputed domain name is confusingly similar to the trademark EQUIFAX in which the Complainant has rights as it reproduces the trademark in its entirety with the mere difference that the letters "f" and "a" are transposed, followed by the generic Top-Level Domain ("gTLD") ".com".

With reference to rights or legitimate interests in respect of the disputed domain name, the Complainant states that it never assigned, granted, licensed, sold, transferred or in any way authorized the Respondent to register or use its trademark EQUIFAX in any manner.

The Complainant highlights that, by using the disputed domain name in connection with a pay-per-click page that includes links for services related to the trademark EQUIFAX, the Respondent has failed to provide a *bona fide* offering of goods or services under the Policy. The Complainant also underlines that, by using the disputed domain name in connection with a monetized parking page, the Respondent's actions are clearly commercial and, therefore, the Respondent cannot establish rights or legitimate interests pursuant to paragraph 4(c)(iii) of the Policy. Moreover, the Complainant emphasizes that 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.

With reference to the circumstances evidencing bad faith, the Complainant indicates that, considering the Respondent, which is an unaffiliated entity, registered a domain name that is confusingly similar to its famous and widely-known trademark, protected by at least 221 trademark registrations in at least 56 jurisdictions worldwide (the oldest of which was used and registered 47 years ago), it is highly implausible that the Respondent was unaware of the Complainant at the time of registering the disputed domain name and the Respondent clearly acted in bad faith.

The Complainant emphasizes that, since the disputed domain name is so obviously connected with the Complainant and is being used in connection with a monetized parking page, the Respondent's actions also suggest "opportunistic bad faith" in violation of the Policy.

B. Respondent

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

6. Discussion and Findings

According to paragraph 15(a) of the Rules: "A Panel shall decide a complaint 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." Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following:

- (i) that the disputed domain name registered by the Respondent is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has established rights over the trademark EQUIFAX based on the trademark registrations cited under section 4 above.

It is well accepted that the first element functions primarily as a standing requirement, and that the threshold test for confusing similarity involves a reasoned but relatively straightforward comparison between a complainant's trademark and the disputed domain name to assess whether the trademark is recognizable within the disputed domain name (section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#))).

Moreover, as stated in 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". In the case at hand, the Complainant's trademark EQUIFAX is entirely reproduced in the disputed domain name, with the mere difference that the letters "f" and "a" are transposed.

The Panel finds that the mere inversion of the letters "f" and "a" of the trademark EQUIFAX in the disputed domain name does not prevent the disputed domain name from being confusingly similar to the Complainant's trademark and may also be interpreted to be a misspelled version of EQUIFAX.

As to the gTLD “.com”, as stated in section 1.11 of the [WIPO Overview 3.0](#), “the applicable Top Level Domain (“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”.

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

B. Rights or Legitimate Interests

The Complainant must show that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent may establish rights or legitimate interests in the disputed domain name by demonstrating in accordance with paragraph 4(c) of the Policy any of the following:

“(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.”

In the case at hand, by not submitting a Response, the Respondent has failed to invoke any circumstance that could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights or legitimate interests in the disputed domain name.

The Panel notes that there is no relation, disclosed to the Panel or otherwise apparent from the record, between the Respondent and the Complainant. The Respondent is not a licensee of the Complainant, nor has the Respondent otherwise obtained an authorization to use the Complainant’s trademarks. Moreover, there is no evidence that the Respondent might be commonly known by the disputed domain name.

As highlighted above, the disputed domain name, currently not pointed to an active website, was used in the past to redirect users to a parking page with pay-per-click links connected to the Complainant’s services. The Panel finds that the use of the disputed domain name made by the Respondent does not amount to a *bona fide* offering of goods or services or a legitimate noncommercial or fair use of the disputed domain name without intention to misleadingly divert the consumers or to tarnish the Complainant’s trademark. See [WIPO Overview 3.0](#), section 2.9.

Therefore, the Panel finds that the Complainant has proven that the Respondent has no rights or legitimate interests in the disputed domain name according to paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy requires that the Complainant prove that the disputed domain name was registered and is being used by the Respondent in bad faith.

As to bad faith at the time of registration, the Panel notes that, in light of the prior registration and use of the Complainant’s trademark EQUIFAX and of the notoriety of the same (recognized also in prior UDRP decisions, such as *Equifax Inc. v. Domain Administrator, Fundacion Privacy Services LTD*, WIPO Case No. [D2022-1004](#) and *Equifax Inc. v. Privacy Protection / Domain / Administrator*, WIPO Case No. [D2022-0781](#)), the Respondent was more likely than not aware of the Complainant’s trademark.

Furthermore, the Panel notes that the disputed domain name was previously pointed to a parking page where the Complainant's "Credit Report" service was referenced, a circumstance which further supports the finding that the Respondent was indeed aware of the Complainant and its services.

The Panel also finds that the Respondent's use of the disputed domain name in connection with a website displaying pay-per-click links amounts to bad faith under paragraph 4(b)(iv) of the Policy, since the Respondent intentionally attempted to attract Internet users to its website for commercial gain, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation or endorsement of its website and the products and services advertised on it.

As mentioned above, the disputed domain name is currently not pointed to an active website. According to section 3.3 of the [WIPO Overview 3.0](#), "From the inception of the UDRP, panelists have found that the non-use of a domain name (including a blank or 'coming soon' page) would not prevent a finding of bad faith under the doctrine of passive holding. While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put".

In the case at hand, in view of i) the distinctiveness and reputation of the Complainant's trademark EQUIFAX; ii) the Respondent's registration of a domain name which in the Panel's view amounts to a deliberate misspelling of the Complainant's prior trademark; iii) the absence of any documented rights or legitimate interests of the Respondent in the disputed domain name; iv) the Respondent's failure to respond to the Complaint; and v) the implausibility of any good faith use to which the disputed domain name may be put, the Panel finds that the current passive holding of the disputed domain name by the Respondent does not prevent a finding of bad faith registration and use. See section 3.3. of [WIPO Overview 3.0](#).

Therefore, the Panel finds that the Complainant has also proven that the Respondent registered and is using the disputed domain name in bad faith according to 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 <equiafx.com> be transferred to the Complainant.

/Luca Barbero/

Luca Barbero

Sole Panelist

Date: December 19, 2022