

ADMINISTRATIVE PANEL DECISION

Equifax Inc. v. Registrant Registrant, Registrant
Case No. D2022-4579

1. The Parties

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

The Respondent is Registrant Registrant, Registrant, Hong Kong, China.

2. The Domain Name and Registrar

The disputed domain name <exquifax.com> (the "Disputed Domain Name") is registered with eNom, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 1, 2022. On December 1, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 1, 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 December 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 on December 2, 2022.

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 December 6, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 26, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 29, 2022.

The Center appointed Christiane Féral-Schuhl as the sole panelist in this matter on January 10, 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 leading global provider of information solutions and human resources business process outsourcing services for businesses, governments, and consumers.

The Complainant, incorporated in 1913, has registered the domain name <equifax.com> in 1995, and uses it in connection with its primary website.

The Complainant is also the owner of several trademark registrations containing the word “EQUIFAX” including the following trademark registrations (hereafter the “EQUIFAX Trademarks”):

- the US trademark EQUIFAX No. 1,027,544, registered on December 16, 1975, for services in class 36,
- the US trademark EQUIFAX No. 1,045,574, registered on August 3, 1976, for services in class 35,
- the US trademark EQUIFAX No. 1,644,585, registered on May 14, 1991, for services in classes 35, 36 and 42.

The Disputed Domain Name was registered on January 15, 2003, and redirects visitors to a variety of unrelated websites, including websites that appear to be designed to distribute malware or otherwise endanger Internet users.

5. Parties’ Contentions

A. Complainant

First, the Complainant states that the Disputed Domain Name is confusingly similar to its EQUIFAX Trademarks. The Complainant states that the Disputed Domain Name wholly reproduces its EQUIFAX Trademarks simply adding the letter “x” after the first letter. The Complainant highlights that despite the Disputed Domain Name’s addition of the letter “x” after the first letter of the EQUIFAX Trademarks, the trademarks are still clearly recognizable within the Disputed Domain Name and that the overall impression of the designation of the Disputed Domain Name is one of being connected to the EQUIFAX Trademarks of the Complainant.

Then, the Complainant states that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name given that the Complainant has never assigned, granted, licensed, sold, transferred or in any way authorized the Respondent to register or use the EQUIFAX Trademarks in any manner. In addition, the Complainant highlights the fact that the Disputed Domain Name has been used to redirect visitors to a variety of unrelated websites, including websites that appear to be designed to distribute malware or otherwise endanger Internet users and that therefore the Respondent cannot demonstrate any right or legitimate interest. The Complainant adds that the Respondent has failed to create a *bona fide* offering of goods or services under the Policy. Finally, the Complainant states 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.

Lastly, the Complainant states that the Disputed Domain Name was registered and is being used in bad faith. The Complainant explains that the EQUIFAX Trademarks are famous and/or widely-known and that it is implausible that the Respondent was unaware of the Complainant when it registered the Disputed Domain Name. The Complainant adds that by using the Disputed Domain Name to redirect visitors to a variety of unrelated websites, including websites that appear to be designed to distribute malware or otherwise

endanger Internet users, the Respondent is clearly aiming at “creating a likelihood of confusion” with the EQUIFAX Trademarks, constituting use in bad faith.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that the Complainant shall prove the following three elements:

- (i) the Disputed Domain Name 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 Disputed Domain Name; and
- (iii) the Disputed Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

According to the Policy, paragraph 4(a)(i), the Complainant shall prove that the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

First of all, the Panel finds that the Complainant has provided evidence that it has rights in the EQUIFAX Trademarks.

Then, the Panel wishes to remind that the first element of the UDRP serves essentially as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant’s trademark and the Disputed Domain Name.

This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the domain name (see section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#))).

Regarding the Disputed Domain Name the Panel finds that it is composed of:

- the EQUIFAX Trademarks;
- the letter “X” added after the first letter of the EQUIFAX Trademarks; and
- the generic Top-Level Domain (“gTLD”) “.com”, it being specified that the gTLD in a domain name is viewed as a standard registration requirement and as such is disregarded for the purpose of determining whether a domain name is identical or confusingly similar to a trademark.

According to prior UDRP panel decisions, it is sufficient that the disputed domain name incorporates the entirety of a trademark, in order to consider the domain name as confusingly similar to that mark for purposes of UDRP standing. The Panel considers that, in this case, the insertion of the letter “X” after the first letter of the EQUIFAX Trademarks does not prevent a finding of confusing similarity. See section 1.9 of the [WIPO Overview 3.0](#).

Therefore, the Panel holds that the Disputed Domain Name is confusingly similar to the EQUIFAX Trademarks and that the Complainant has established the first element of paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

According to the Policy, paragraph 4(a)(ii), the Complainant shall demonstrate that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

The Policy, paragraph 4(c), outlines circumstances that if found by the Panel to be proved shall demonstrate the Respondent's rights or legitimate interests in the Disputed Domain Name.

These circumstances are:

- before any notice of the dispute to the respondent, the respondent's 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
- the respondent (as an individual, business, or other organization) has been commonly known by the domain name, even if the respondent has acquired no trademark or service mark rights; or
- the respondent is 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.

According to prior UDRP panel decisions, it is sufficient that a complainant shows *prima facie* that a respondent lacks rights or legitimate interests in a domain name in order to shift the burden of production to the respondent (see *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#)).

Indeed, while the overall burden of proof in a UDRP proceedings is on the complainant, previous UDRP panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often-impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out *prima facie* that a 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 (see section 2.1 of the [WIPO Overview 3.0](#)).

According to the Panel, the Complainant has shown *prima facie* that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

Indeed, it appears that the Respondent has no affiliation with the Complainant and has not received any authorization to use the EQUIFAX Trademarks in any manner.

Moreover, the Panel finds that a screen capture made by the Complainant of a website to which the Disputed Domain Name resolved, showed what looked like an operational placard, headed "Software update", stating that the version of Adobe Flash Player installed on the computer might not have the latest security updates, and offered buttons labelled "Update" and "Download Flash". Another box marked "RECOMMENDED", with a download button, encouraged the Internet users to download a purported "latest version of Flash Player in order to continue watching". The Complainant alleges that this website would have caused the download of a fraudulent Flash installer containing malware, which is not contested by the Respondent.

Accordingly, and as already ruled in a similar case (see *Heaven Hill Distilleries, Inc. v. Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-0906](#)), the Panel considers that there is no evidence the Disputed Domain Name has been used in connection with a *bona fide* offering of goods or services, or that the Respondent is commonly known by the disputed domain name, or of any legitimate noncommercial or fair usage.

Therefore, according to the Policy, paragraph 4(a)(ii) and 4(c), the Panel considers that the Respondent does not have rights or legitimate interests in the Disputed Domain Name.

C. Registered and Used in Bad Faith

According to the Policy, paragraph 4(a)(iii), the Complainant shall prove that the Disputed Domain Name has been registered and is being used in bad faith.

Thus, paragraph 4(b) provides that any one of the following non-exclusive scenarios constitutes evidence of a respondent's bad faith:

(i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name 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 the respondent's documented out-of-pocket costs directly related to the domain name; or

(ii) the respondent has 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 the respondent has engaged in a pattern of such conduct; or

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

(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its 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 the respondent's website or location or of a product or service on the respondent's website or location.

First, the Panel considers that it is established that the Complainant has been actively using the EQUIFAX Trademarks before the registration of the Disputed Domain Name, and that the EQUIFAX Trademarks are registered in multiple jurisdictions worldwide, and that the oldest was used and registered 47 years ago. The Complainant also provides several UDRP proceedings in which panels have referred to the EQUIFAX Trademarks as "well-known" (*Equifax Inc. v. Super Privacy Service LTD c/o Dynadot / Babacan Gunduz*, WIPO Case No. [D2021-3814](#); and *Equifax Inc. v. Domain Controller, Yoyo Email / Yoyo.Email Ltd.*, WIPO Case No. [D2015-0880](#)). Also considering that the term "exquifax" has no meaning in any language, there is no doubt that the Respondent knew the Complainant at the date of registration of the Disputed Domain Name and that the Respondent has registered it in bad faith.

By adding one letter to the EQUIFAX Trademarks, the Respondent has intentionally attempted to confuse Internet users and capitalize on the fame of the Complainant's EQUIFAX Trademarks. This constitutes an act of typosquatting that must be considered as a bad faith registration of the Disputed Domain Name.

Moreover, as discussed above, the Panel points out the fact that the Disputed Domain Name redirected visitors to a variety of unrelated websites, including websites that appear to be designed to distribute malware or otherwise endanger Internet users also constitutes a use in bad faith.

In addition, the Respondent has not provided any answer to the Complainant's contentions.

Considering all of the above, the Panel finds that it is not possible to conceive of any plausible actual or contemplated good faith registration and use of the Disputed Domain Name by the Respondent.

Therefore, in view of all the circumstances of this case, the Panel holds that the Respondent has registered and is using the Disputed Domain Name in bad faith according to the Policy, paragraph 4(a)(iii) and 4(b)(iv).

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, <exquifax.com> be transferred to the Complainant.

/Christiane Féral-Schuhl/

Christiane Féral-Schuhl

Sole Panelist

Date: January 24, 2023