

ADMINISTRATIVE PANEL DECISION

Equifax Inc. v. Name Redacted

Case No. D2022-4932

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 Name Redacted¹.

2. The Domain Name and Registrar

The disputed domain name <equifaxdatalawsuit.com> (the “Disputed Domain Name”) is registered with Tucows Domains Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 22, 2022. On December 22, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On the same day, 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 December 23, 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 on the same day.

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”).

¹ The Respondent appears to have used contradictory contact details. In light of the conflicting information, the Panel has redacted the Respondent’s name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case.

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on December 28, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 17, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 18, 2023.

The Center appointed Lynda M. Braun as the sole panelist in this matter on January 20, 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 consumer credit reporting agency headquartered in Atlanta, Georgia, and is one of the three largest consumer credit reporting agencies in the United States. The Complainant is also a leading global provider of information solutions and human resources business process outsourcing services for businesses, governments, and consumers. The Complainant collects and aggregates information on over 800 million individual consumers and more than 88 million businesses worldwide. In addition to credit and demographic data and services to businesses, the Complainant sells credit monitoring and fraud prevention services directly to consumers and provides consumers with a summary of their credit history and certain other information reported to credit bureaus by lenders and creditors. 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.

The Complainant owns United States trademark registrations for EQUIFAX with the United States Patent and Trademark Office ("USPTO"), including, but not limited to: EQUIFAX, United States Registration No. 1,027,544, registered on December 16, 1975, in international class 36; EQUIFAX, United States Registration No. 1,045,574, registered on August 3, 1976, in international class 35; and EQUIFAX, United States Registration No. 1,644,585, registered on May 14, 1991, in international classes 35, 36 and 42. The Complainant also owns at least 221 trademark registrations in about 56 jurisdictions worldwide for trademarks that consist of or incorporate the EQUIFAX trademark.

The aforementioned trademarks will hereinafter collectively be referred to as the "EQUIFAX Mark".

In addition, the Complainant registered the <equifax.com> domain name on February 21, 1995, and hosts and operates its official website, which is located at "www.equifax.com". The website describes the products and services that the Complainant offers.

The Disputed Domain Name was registered on September 11, 2017, 42 years after the Complainant first used and registered the EQUIFAX Mark. The Disputed Domain Name redirects to a passive landing page with no substantive content, that states: "This site can't be reached. www.equifaxdatalawsuit.com refused to connect."

Moreover, although the Respondent is not using the Disputed Domain Name in connection with an active website, the Respondent has configured mail exchange ("MX") records for the Disputed Domain Name, enabling the Respondent to send and receive email with addresses that use the Disputed Domain Name.

5. Parties' Contentions

A. Complainant

The following are the Complainant's contentions:

- the Disputed Domain Name is confusingly similar to the Complainant's EQUIFAX Mark;

- the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and
- the Disputed Domain Name was registered and is being used in bad faith.

The Complainant seeks the transfer of the Disputed Domain Name from the Respondent to the Complainant in accordance with paragraph 4(i) of the Policy.

B. Respondent

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

6. Discussion and Findings

In order for the Complainant to prevail and have the Disputed Domain Name transferred to the Complainant, the Complainant must prove the following (Policy, paragraph 4(a):

- (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

Paragraph 4(a)(i) of the Policy requires a two-fold inquiry: a threshold investigation into whether a complainant has rights in a trademark, followed by an assessment of whether the disputed domain name is identical or confusingly similar to that trademark. The Panel concludes that in the present case, the Disputed Domain Name is confusingly similar to the EQUIFAX Mark as explained below.

It is uncontroverted that the Complainant has established rights in the EQUIFAX Mark based on its decades of use as well as its numerous registered trademarks for the EQUIFAX Mark in the United States (where the Respondent purportedly resides) and other jurisdictions worldwide. The registration of a mark satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case. Thus, the Panel finds that the Complainant has rights in the EQUIFAX Mark. As stated in section 1.2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), "[w]here the complainant holds a nationally or regionally registered trademark or service mark, this *prima facie* satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case". Thus, the Panel finds that the Complainant satisfied the threshold requirement of having rights in the EQUIFAX Mark.

The Disputed Domain Name consists of the EQUIFAX Mark in its entirety, followed by the terms "data" and "lawsuit", and then followed by the generic Top-Level Domain ("gTLD") ".com". Where the trademark is recognizable in the Disputed Domain Name, the addition of terms such as "data" and "lawsuit" does not prevent a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.8 ("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").

Finally, the addition of a gTLD such as ".com" in a domain name is a technical requirement. Thus, it is well established that such element may typically be disregarded when assessing whether a domain name is identical or confusingly similar to a trademark. See *Proactiva Medio Ambiente, S.A. v. Proactiva*, WIPO Case No. [D2012-0182](#) and [WIPO Overview 3.0](#), section 1.11.1. Thus, the Panel concludes that the Disputed Domain Name is confusingly similar to the Complainant's EQUIFAX Mark.

Accordingly, the Panel finds that the first element of paragraph 4(a) of the Policy has been met by the Complainant.

B. Rights or Legitimate Interests

Under the Policy, a complainant has to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name. Once such a *prima facie* case is made, the respondent carries the burden of production of evidence that demonstrates rights or legitimate interests in the disputed domain name. If the respondent fails to do so, the complainant may be deemed to have satisfied paragraph 4(a)(ii) of the Policy. See [WIPO Overview 3.0](#), section 2.1.

In this case, given the facts as set out above, the Panel finds that the Complainant has made out a *prima facie* case. The Respondent has not submitted any arguments or evidence to rebut the Complainant's *prima facie* case. Furthermore, the Complainant has not authorized, licensed or otherwise permitted the Respondent to use its EQUIFAX Mark. Nor does the Complainant have any type of business relationship with the Respondent. There is also no evidence that the Respondent is commonly known by the Disputed Domain Name or by any similar name, nor any evidence that the Respondent was using or making demonstrable preparations to use the Disputed Domain Name in connection with a *bona fide* offering of goods or services. See Policy, paragraph 4(c).

Further, by failing to use the Disputed Domain Name in connection with an active website, 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 pursuant to paragraph 4(c)(i) of the Policy. As other UDRP panels have contended, “[p]assively holding a domain name does not constitute a *bona fide* offering of goods or services.” *Philip Morris USA Inc. v. Gabriel Hall*, WIPO Case No. [D2015-1779](#). See also, e.g., *L’Oréal v. Haya Manami*, WIPO Case No. [D2015-0924](#) (“The Domain Name points to an inactive page. Consequently, Respondent is not using the Domain Name in connection with a *bona fide* offering of goods or services.”)

In sum, the Panel concludes that the Complainant has established an un rebutted *prima facie* case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name.

Rather, the Panel finds that the Respondent is using the Disputed Domain Name for commercial gain with the intent to mislead by potentially defrauding the Complainant's customers by potentially incorporating the Disputed Domain Name into emails sent by the Respondent to the Complainant's customers. Such use cannot conceivably constitute a *bona fide* offering of a product or service within the meaning of paragraph 4(c)(i) of the Policy.

Accordingly, the Panel finds that the second element of paragraph 4(a) of the Policy has been met by the Complainant.

C. Registered and Used in Bad Faith

The Panel finds that based on the record, the Complainant has demonstrated the existence of the Respondent's bad faith pursuant to paragraph 4(b) of the Policy.

First, the Panel finds that the Respondent's registration and use of the Disputed Domain Name indicates that such registration and use has been done for the specific purpose of trading on the name and reputation of the Complainant and its EQUIFAX Mark. See *Madonna Ciccone, p/k/a Madonna v. Dan Parisi and “Madonna.com”*, WIPO Case No. [D2000-0847](#) (“[t]he only plausible explanation for Respondent's actions appears to be an intentional effort to trade upon the fame of Complainant's name and mark”).

Second, the Disputed Domain Name was registered approximately 42 years after the Complainant first used and registered its EQUIFAX Mark. Therefore, noting the composition of the Disputed Domain Name and its use, the Panel finds that the Respondent had the Complainant's trademark in mind when registering the

Disputed Domain Name, an indication of bad faith.

Third, inactive or passive holding of the Disputed Domain Name by the Respondent does not prevent a finding of bad faith use. See *Advance Magazine Publishers Inc. and Les Publications Condé Nast S.A. v. ChinaVogue.com*, WIPO Case No. [D2005-0615](#); and *Société pour l’Oeuvre et la Mémoire d’Antoine de Saint Exupéry – Succession Saint Exupéry – D’Agay v. Perlegos Properties*, WIPO Case No. [D2005-1085](#). It has long been held in UDRP decisions that the passive holding of a disputed domain name that incorporates a well-known trademark without a legitimate Internet purpose may indicate that the disputed domain name is being used in bad faith under paragraph 4(a)(iii) of the Policy. See *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#); see also [WIPO Overview 3.0](#), section 3.3 (non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding).

Accordingly, in the absence of a Response or any evidence to the contrary, the Panel finds that the third element of paragraph 4(a) of the Policy has been met by the Complainant.

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 <equifaxdatalawsuit.com> be transferred to the Complainant.

/Lynda M. Braun/

Lynda M. Braun

Sole Panelist

Date: January 30, 2023