

ADMINISTRATIVE PANEL DECISION

Equifax Inc. v. Moniker Online Services, LLC

Case No. D2023-0907

1. The Parties

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

Respondent is Moniker Online Services, LLC, United States.

2. The Domain Name and Registrar

The disputed domain name <equifax.com> is registered with Moniker Online Services, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 1, 2023. On March 1, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 2, 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 (On behalf of equifax.com OWNER / c/o whoisproxy.com) and contact information in the Complaint. The Center sent an email communication to Complainant on the same day, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on March 4, 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 Respondent of the Complaint, and the proceedings commenced on March 6, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 26, 2023. Respondent did not submit any response. Accordingly, the Center notified the Parties of Respondent’s default on March 27, 2023.

The Center appointed Ingrīda Kariņa-Bērziņa as the sole panelist in this matter on April 3, 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

Complainant is an international provider of information and business process services including a credit reporting service for consumers. Originally incorporated in the State of Georgia (United States) in 1913, Complainant's predecessor company dates to 1899. It operates its primary business website at the domain name <equifax.com>, which it registered in 1995. Complainant operates or has investments in 24 countries, and employs 11,000 people worldwide. Complainant is the proprietor of over 200 trademark registrations in over 50 jurisdictions for the EQUIFAX mark, including United States Trademark Registration No. 1027544 for EQUIFAX (word mark), registered on December 16, 1975 for services in class 36.

The disputed domain name was registered on August 13, 2002. It resolves to a website featuring pay-per-click ("PPC") links related to personal credit ratings and identity protection.

5. Parties' Contentions

A. Complainant

Complainant's contentions may be summarized as follows:

Under the first element, Complainant states that the disputed domain name contains the EQUIFAX mark in its entirety, simply adding the letter "x" in the middle.

Under the second element, Complainant states that it has never assigned, granted, licensed, sold, transferred on in any way authorized Respondent to register or use the EQUIFAX mark in any manner. Respondent is using the disputed domain name in connection with a PPC page that includes links to services related to the EQUIFAX mark, including "Check Free Credit Score", "Identity Protection", and "Credit Score Monitoring". Such use is commercial and cannot establish rights or legitimate interests.

Under the third element, Complainant states that the EQUIFAX mark is clearly famous and/or widely known. It is protected by 221 trademark registrations in 56 jurisdictions, the oldest of which was used and registered 48 years ago, predating the registration of the disputed domain name by 27 years. Previous Panels have referred to the EQUIFAX mark as "well-known". It is implausible that Respondent was unaware of the Complainant's mark. Use of the disputed domain name in connection with a monetized parking page under the circumstances constitutes bad faith.

Complainant requests transfer of the disputed domain name.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 4(a) of the UDRP requires Complainant to make out all three of the following:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and

- (ii) Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) Respondent has registered and is using the disputed domain name in bad faith.

Under 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”.

A. Identical or Confusingly Similar

Complainant has provided evidence establishing that it has trademark rights in the EQUIFAX mark through registration in the United States and other jurisdictions. Complainant thereby satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.2.1.

In comparing Complainant’s EQUIFAX mark with the disputed domain name, the Panel finds that the disputed domain name is confusingly similar to this mark as the mark is clearly recognizable within the disputed domain name, save for the addition of the letter “x”. This is clearly a deliberate misspelling of Complainant’s trademark. See [WIPO Overview 3.0](#), section 1.9.

It is the well-established view of UDRP panels that a generic Top Level Domain (“gTLD”) such as “.com” is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. See [WIPO Overview 3.0](#), section 1.11.1.

Accordingly, the Panel finds that Complainant has established the first element under paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, a respondent may establish rights to or legitimate interests in a domain name by demonstrating any of the following:

- (i) before any notice to it of the dispute, 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
- (ii) respondent has been commonly known by the domain name, even if it has acquired no trademark or service mark rights; or
- (iii) 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.

The Panel finds that the evidence submitted by Complainant establishes a *prima facie* case that Respondent has no rights or legitimate interests in the disputed domain name. Respondent is not authorized by Complainant and has no rights in the EQUIFAX mark.

Pursuant to [WIPO Overview 3.0](#), section 2.1, and cases thereunder, where Complainant makes out a *prima facie* case that Respondent lacks rights or legitimate interests, the burden of production on this element shifts to Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

Respondent has not provided any rebuttal of Complainant’s *prima facie* case and has therefore not proved rights or legitimate interests in the disputed domain name. There is no evidence that Respondent is commonly known by the disputed domain name, or that there are any circumstances or activities that would establish Respondent’s rights therein. There is no evidence of legitimate noncommercial use or a *bona fide* offering of goods or services.

The Panel finds that the use of a disputed domain name (incorporating an obvious misspelling of Complainant's mark) to resolve to a PPC website such as the one used by Respondent does not represent a *bona fide* offering as the links compete with or capitalize on the reputation and goodwill of Complainant's mark. See [WIPO Overview 3.0](#), section 2.9. See also *Shangri-La International Hotel Management Limited v. NetIncome Ventures Inc.*, WIPO Case No. [D2006-1315](#); *Villeroy & Boch AG v. Mario Pingerna*, WIPO Case No. [D2007-1912](#).

Accordingly, the Panel finds that Complainant has established the second element under paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that Complainant has demonstrated Respondent's bad faith registration and use of the disputed domain name. Complainant's rights in its EQUIFAX mark predates the registration of the disputed domain name by nearly 30 years. The disputed domain name is an obvious misspelling of Complainant's trademark. Accordingly, it is clear that Respondent had Complainant's mark in mind when registering the disputed domain name. Moreover, UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos) to a famous or widely-known trademark by an unaffiliated entity, as in this case, can by itself create a presumption of bad faith on the part of Respondent. See [WIPO Overview 3.0](#), section 3.1.4.

The Panel finds the evidence in the record establishes that Respondent used the disputed domain name to resolve to a website featuring PPC links related to Complainant's business. Absent any evidence of mitigating factors such as efforts by Respondent to avoid links that target Complainant's mark, such use is clearly evidence of bad-faith use of the disputed domain name. See [WIPO Overview 3.0](#), section, 3.5.

Respondent has provided no evidence of actual or contemplated good-faith use of the disputed domain name and, under the circumstances, the Panel does not find any such use plausible.

The Panel finds that Complainant has established the third element under paragraph 4(a) 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 <equifax.com> be transferred to Complainant.

/Ingrīda Kariņa-Bērziņa/

Ingrīda Kariņa-Bērziņa

Sole Panelist

Date: April 17, 2023