

## **ADMINISTRATIVE PANEL DECISION**

Equifax Inc. v. 杨智超 (Yang Zhi Chao)

Case No. D2023-1172

### **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 杨智超 (Yang Zhi Chao), China.

### **2. The Domain Name and Registrar**

The disputed domain name <equifax.com> is registered with eName Technology Co., Ltd. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on March 16, 2023. On March 16, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 17, 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 (undisclosed) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 21, 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 in English on March 23, 2023.

On March 21, 2023, the Center sent an email in English and Chinese to the Parties regarding the language of the proceeding. The Complainant requested that English be the language of the proceeding on March 23, 2023. The Respondent did not comment on the language of the proceeding.

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 in English and Chinese of the Complaint, and the proceedings commenced on March 30, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 19, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 20, 2023.

The Center appointed Rachel Tan as the sole panelist in this matter on April 25, 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, Equifax Inc., was incorporated in the United States in 1913. It is a provider of information solutions and human resources business process outsourcing services for businesses, governments, and consumers. In particular, its services include offering credit reporting. The Complainant is traded on the New York Stock Exchange (NYSE) under the symbol EFX. It operates or has investments in 24 countries in North America, Central and South America, Europe, and the Asia Pacific region.

The Complainant first used its EQUIFAX mark in commerce in 1975. It is the owner of a range of trade mark registrations for the EQUIFAX mark, including United States Trade Mark Registration No. 1,027,544, registered on December 16, 1975, in class 36; United States Trade Mark Registration No. 1,045,574, registered on August 3, 1976, in class 35; and United States Trade Mark Registration No. 1,644,585, registered on May 14, 1991, in classes 35, 36, and 42.

The Complainant is also the owner of the domain name <equifax.com>, which was created on February 21, 1995. The Complainant uses this domain name in connection with its primary website.

The Respondent is 杨智超 (Yang Zhi Chao), China.

The disputed domain name was registered on June 21, 2022. At the time of filing of the Complaint, the disputed domain name resolved to an active pay-per-click (“PPC”) webpage that lists out multiple third-party links related to different advertisements covering content such as “Credit Bureau” and “Equifax Credit Freeze”. At the date of this Decision, the disputed domain name continues to resolve to a similar PPC webpage.

#### 5. Parties’ Contentions

##### A. Complainant

The Complainant contends that the disputed domain name is identical or confusingly similar to the EQUIFAX mark. The disputed domain name contains the EQUIFAX mark in its entirety. The addition of the letter “e” in the middle of the EQUIFAX mark would not prevent a finding of confusing similarity under the first element. The generic Top-Level Domain (“gTLD”) “.com” is a standard registration requirement and is disregarded under the first element confusing similarity test.

The Complainant further alleges that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant has never assigned, granted, licensed, sold, transferred, or in any way authorized the Respondent to register or use the EQUIFAX mark in any manner. By using the disputed domain name in connection with a PPC page that includes links for services related to the EQUIFAX mark, the Respondent has failed to create a *bona fide* offering of goods or services. Further, the Respondent has never been commonly known by the disputed domain name.

The Complainant finally asserts that the disputed domain name should be considered as having been registered and used in bad faith by the Respondent. Given the fame of the Complainant’s services under the EQUIFAX mark as well as the similarity between the disputed domain name and the Complainant’s own domain name <equifax.com>, it is inconceivable that the Respondent chose the disputed domain name without knowledge of the Complainant’s activities and mark. The use of the disputed domain name in connection with a monetized parking page with PPC links constitutes bad faith. Further, the Respondent is a repeat cybersquatter who has lost numerous previous decisions under the Policy.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1 Language of the Proceeding**

Initially, the Panel must address the language of the proceeding. Paragraph 11(a) of the Rules provides that the language of the administrative proceeding shall be the language of the registration agreement unless otherwise agreed by the parties, subject to the authority of the panel to determine otherwise, having regard to the circumstances of the administrative proceeding. The panel may choose to write a decision in either language, or request translation of either party's submissions.

In this case, the Registrar has confirmed to the Center that the language of the Registration Agreement as used by the registrant for the disputed domain name is Chinese. However, the Complainant has requested that English be adopted as the language of the proceeding for the reasons summarized below:

- (a) the disputed domain name consists solely of a typographical version of the Complainant's EQUIFAX mark;
- (b) the disputed domain name has been used by the Respondent in connection with a website containing English; and
- (c) previous UDRP panels have found English to be the appropriate language for proceedings under the Policy involving the same Respondent as in this proceeding.

It is established practice to take paragraphs 10(b) and (c) of the Rules into consideration for the purpose of determining the language of the proceeding, in order to ensure fairness to the parties and the maintenance of an inexpensive and expeditious avenue for resolving domain name disputes. Language requirements should not lead to undue burdens being placed on the parties and undue delay to the proceeding.

The Panel has considered the above circumstances, and finds that English shall be the language of this proceeding. The reasons are set out below.

- (a) the Complainant is a company based in the United States. Requiring the Complainant to submit the Complaint in Chinese would lead to delay and cause the Complainant to incur translation expenses;
- (b) the Respondent's choice of Roman letters for the disputed domain name and the content of the resolved website in English indicate that the Respondent is familiar with the English language;
- (c) even if the Respondent does not possess a sufficient command of English to understand the Complaint, there were ample opportunities for the Respondent to raise an objection. The Center notified the Parties in English and Chinese of the Complainant's request for English to be the language of the proceeding, but the Respondent did not protest against this request;
- (d) the Respondent has failed to participate in the proceeding even though the Center sent the notification in English and Chinese of the Complaint, and has been notified of his default; and
- (e) the Complaint has been submitted in English. No foreseeable procedural benefit may be served by requiring Chinese to be used. On the other hand, the proceeding may proceed expeditiously in English.

Accordingly, the Panel will proceed with issuing this Decision in English.

## 6.2 Substantive Issues

### A. Identical or Confusingly Similar

The Panel is satisfied that the Complainant has adduced evidence to demonstrate its established rights in the EQUIFAX mark.

The Panel notes that the disputed domain name consists of a close misspelling of the EQUIFAX mark. In cases where a domain name consists of a common, obvious, or intentional misspelling of a trade mark, the domain name will normally be considered confusingly similar to the relevant mark for purposes of UDRP standing. See section 1.9 of the [WIPO Overview 3.0](#); and *Mediarex Enterprises Limited v. Yong Woon Chin, Webolutions*, WIPO Case No. [DCO2020-0014](#).

Further, it is permissible for the Panel to ignore the gTLD, in this case “.com”. See section 1.11.1 of the [WIPO Overview 3.0](#).

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

### B. Rights or Legitimate Interests

In circumstances where the Complainant possesses exclusive rights to the EQUIFAX mark whereas the Respondent seems to have no trade mark rights, and considering the facts and arguments set out above, the Panel is satisfied that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, and the burden of production shifts to the Respondent. See section 2.1 of the [WIPO Overview 3.0](#).

The Respondent has not provided evidence of a legitimate use of the disputed domain name or reasons to justify the choice of a domain name that is confusing similar to the Complainant’s EQUIFAX mark. Further, there is no indication to show that the Respondent is commonly known by the disputed domain name or otherwise has rights or legitimate interests in it. In addition, the Complainant has not granted the Respondent a license or authorization to use the Complainant’s EQUIFAX mark or register the disputed domain name. The Respondent is not making a legitimate noncommercial or fair use of the disputed domain name in the terms of paragraph 4(c)(iii) of the Policy since at the time of filing of the Complaint and at the date of this Decision the disputed domain name resolves to a PPC website with links to third-party websites, some of which are directly reference the Complainant’s business. Such usage may reasonably be assumed to be commercial in its intent and effect. Prior UDRP panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a *bona fide* offering of goods or services where such links compete with or capitalize on the reputation and goodwill of the complainant’s mark or otherwise mislead Internet users. See section 2.9 of the [WIPO Overview 3.0](#).

Therefore, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name. Accordingly, the Panel finds that the Complainant has satisfied the second element under paragraph 4(a) of the Policy.

### C. Registered and Used in Bad Faith

The Complainant’s EQUIFAX mark has been widely registered around the world. The disputed domain name was registered long after the registration of the Complainant’s EQUIFAX mark. Through extensive use and advertising, the Complainant’s EQUIFAX mark is known throughout the world. Search results using the key word “equifax” on the Internet search engine direct Internet users to the Complainant and its business, which indicates that an exclusive connection between the EQUIFAX mark and the Complainant has been

established. As such, the Respondent either knew or should have known of the Complainant's EQUIFAX mark when registering the disputed domain name, and has exercised "the kind of willful blindness that numerous panels have held support a finding of bad faith". See *eBay Inc. v. Renbu Bai*, WIPO Case No. [D2014-1693](#); and *Barclays Bank PLC v. Andrew Barnes*, WIPO Case No. [D2011-0874](#).

Section 3.1.4 of the [WIPO Overview 3.0](#) states that "[...] mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith". In this case, the disputed domain name is confusingly similar to the widely-known EQUIFAX mark and was registered by the Respondent who has no relationship with the Complainant, which means that a presumption of bad faith can be created.

The disputed domain name currently directs Internet users to a parking website where Internet users are presented with different third-party links of a commercial nature, some of which are the Complainant's competitors. The adoption by the Respondent of the PPC business model using the Complainant's trade mark without authorization for the purpose of attracting Internet users for commercial gain, is an example of bad faith under the Policy, which in conjunction with the composition of the disputed domain name may lead Internet users to be confused into thinking, even if only initially, that these third-party links on the website at the disputed domain name are in some way endorsed by the Complainant. Such use constitutes evidence of bad faith registration and use as contemplated under paragraph 4(b)(iv) of the Policy.

The Panel also notes that the Respondent appears to be engaged in a pattern of abusive registration having registered multiple domain names comprising of other third parties' trade marks. The Panel finds this case is a continuation of that bad faith pattern. See *Media Inc. v. Domain Administrator, See PrivacyGuardian.org / Zhichao Yang and Fly Fish*, WIPO Case No. [D2019-0015](#). Such use constitutes evidence of bad faith registration and use as contemplated under paragraph 4(b)(ii) of the Policy.

The Respondent has kept silent in the face of the Complainant's allegations of bad faith. Taking into account these circumstances, the Panel finds that the Respondent must have known of the Complainant before registering the disputed domain name and, considering the Respondent's lack of rights or legitimate interests, and by registering and using the disputed domain name as discussed above, the Panel is led to conclude that the disputed domain name was registered and is being used in bad faith.

Accordingly, the Panel finds that the Complainant has satisfied 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 the Complainant.

/Rachel Tan/

**Rachel Tan**

Sole Panelist

Date: May 9, 2023