

ADMINISTRATIVE PANEL DECISION

Equifax Inc. v. Domain Administrator, Fundacion Privacy Services LTD
Case No. D2023-1982

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 Administrator, Fundacion Privacy Services LTD, Panama.

2. The Domain Name and Registrar

The disputed domain name <equifaix.com> (“Domain Name”) is registered with Media Elite Holdings Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 4, 2023. On May 4, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On May 7, 2023, 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 verified that 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 May 11, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 31, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 1, 2023.

The Center appointed Nicholas Smith as the sole panelist in this matter on June 23, 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 United States company, incorporated in 1913 and headquartered in Georgia, that provides information solutions and human resources business processes. The Complainant employs 11,000 people worldwide and operates a credit reporting service from its website at “www.equifax.com”, the underlying domain name having been registered on February 21, 1995.

The Complainant is the owner of trade marks in various jurisdictions consisting of the word EQUIFAX (the “EQUIFAX Mark”), including a United States Patent and Trademark Office (“USPTO”) registration for the EQUIFAX Mark (Registration No. 1,027,544, registered December 16, 1975).

The Domain Name was registered on November 20, 2020. Since then, the Domain Name has resolved to a either a website offering pay-per-click (“PPC”) advertisements unrelated to any dictionary meaning of the Domain Name, or a website purporting to offer competing credit reporting services.

5. Parties’ Contentions

A. Complainant

The Complainant makes the following contentions:

(i) that the Domain Name is identical or confusingly similar to the Complainant’s EQUIFAX Mark; (ii) that the Respondent has no rights nor any legitimate interests in respect of the Domain Name; and (iii) that the Domain Name has been registered and is being used in bad faith.

The Complainant is the owner of the EQUIFAX Mark, having registered the EQUIFAX Mark in the United States and various other locations around the globe. The Domain Name consists of a minor misspelling of the EQUIFAX Mark, moving the location of the “i” and adding the “.com” generic Top-Level Domain (“gTLD”).

There are no rights or legitimate interests held by the Respondent in respect of the Domain Name. The Complainant has not granted any license or authorization for the Respondent to use the EQUIFAX Mark nor is the Respondent commonly known by the Domain Name. The Respondent does not use the Domain Name for a *bona fide* purpose or legitimate noncommercial purpose. Instead, the Domain Name resolves to a website site that offers competing credit reporting services. Such use of the Domain Name cannot and do not constitute *bona fide* commercial use, sufficient to legitimize any rights and interests the Respondent might have in the Domain Name and therefore the Respondent has no rights or legitimate interests in the Domain Name under paragraph 4(a)(ii) of the Policy.

There is no plausible circumstance under which the Respondent could legitimately use the Domain Name, which consists of a minor misspelling of the EQUIFAX Mark, other than in bad faith. By using the Domain Name to resolve to a website that offers competing services, the Respondent is using the Domain Name to divert Internet users searching for the Complainant to the Respondent’s website for commercial gain. The Respondent has also established MX records for the Domain Name, indicating that it could be used to send phishing emails. Such conduct amounts to registration and use of the Domain Name in bad faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

To prove this element, the Complainant must have trade or service mark rights and the Domain Name must be identical or confusingly similar to the Complainant's trade or service mark.

The Complainant is the owner of the EQUIFAX Mark, having a registration for the EQUIFAX Mark as a trade mark in the United States and various other jurisdictions.

Disregarding the ".com" gTLD as a necessary technical requirement of the Domain Name, the Domain Name is confusingly similar to the EQUIFAX Mark since it wholly incorporates the EQUIFAX Mark, other than moving the letter "i" from the fourth to the sixth letter, which creates a minor misspelling that would be easy for an Internet user to overlook. The Domain Name contains sufficiently recognizable aspects of the EQUIFAX Mark. Consequently, the requirement of paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

To succeed on this element, a complainant may make out a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name. If such a *prima facie* case is made out, the respondent then has the burden of demonstrating rights or legitimate interests in the domain name.

Paragraph 4(c) of the Policy enumerates several ways in which a respondent may demonstrate rights or legitimate interests in a disputed domain name:

"Any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate your rights or legitimate interests to the domain name for purposes of paragraph 4(a)(ii) of the Policy:

(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 trade mark or service mark rights; or

(iii) you are making legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark or service mark at issue."

The Respondent is not affiliated with the Complainant in any way. It has not been authorized by the Complainant to register or use the Domain Name or to seek the registration of any domain name incorporating the EQUIFAX Mark or a mark similar to the EQUIFAX Mark. There is no evidence that the Respondent is commonly known by the Domain Name or any similar name.

There is no evidence that the Respondent has used or made demonstrable preparations to use the Domain Name in connection with a legitimate noncommercial or fair use or a *bona fide* offering of goods or services.

The Respondent has used the Domain Name, which is confusingly similar to the Complainant's well-known mark in the field of credit reporting, to resolve to a website that purports to offer competing credit reporting services. Such conduct does not, on its face, amount to the use of the Domain Name for a *bona fide* offering of goods or services. Nor does the use of the Domain Name for a parking page with pay-per-click links unrelated to a dictionary meaning of the Domain Name amount to a *bona fide* offering of goods or services.

The Panel notes the statements in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") on the question of whether "parked" pages comprising pay-per-click

links support respondent rights or legitimate interests. The section 2.9 of the [WIPO Overview 3.0](#) notes that:

“Applying UDRP paragraph 4(c), 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 where such links compete with or capitalize on the reputation and goodwill of the complainant’s mark or otherwise mislead Internet users.

Panels have recognized that the use of a domain name to host a page comprising PPC links would be permissible – and therefore consistent with respondent rights or legitimate interests under the UDRP – where the domain name consists of an actual dictionary word(s) or phrase and is used to host PPC links genuinely related to the dictionary meaning of the word(s) or phrase comprising the domain name, and not to trade off the complainant’s (or its competitor’s) trade mark.”

In the present case, the Domain Name has no inherent meaning and hence the Respondent’s use of the confusingly similar Domain Name to host a parking page with pay-per-click links does not, absent any further explanation, provide the Respondent with rights or legitimate interests in the Domain Name.

The Panel finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the Domain Name. The Respondent has chosen not to respond to the Complaint and thus has failed to provide any evidence of rights or legitimate interests in the Domain Name. The Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

For the purposes of paragraph 4(a)(iii) of the Policy, the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of the Domain Name in bad faith:

- (i) circumstances indicating that the Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registrations to the Complainant who is the owner of the trade mark or service mark or to a competitor of the Complainant, for valuable consideration in excess of its 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 trade mark 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.

The Domain Name was registered well after the EQUIFAX Mark was first used and registered. The Panel finds, on the balance of probabilities, that the Respondent would have been aware of the Complainant and its reputation in the EQUIFAX Mark at the time the Respondent registered the Domain Name. The Domain Name has resolved to a website that purports to offer services in direct competition with services offered by the Complainant and there is no obvious reason, nor has the Respondent offered an explanation, for the Respondent to register a domain name incorporating a minor misspelling of the EQUIFAX Mark unless there was an intention to create a likelihood of confusion between the Domain Name and the EQUIFAX Mark.

The Domain Name has been used both to offer competing services and for pay-per-click links for which the Respondent undoubtedly received some commercial gain. In these circumstances where the Respondent has offered no plausible explanation for the registration of the Domain Name, the Panel finds that the Respondent is using the Domain Name to intentionally attempt to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the EQUIFAX Mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website. As such the Panel finds that the Domain Name is being used in bad faith pursuant to 4(b)(iv) of the Policy.

Accordingly, the Panel finds that the Respondent has registered and is using the Domain Name in bad faith under 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 Domain Name, <equifax.com> be transferred to the Complainant.

/Nicholas Smith/

Nicholas Smith

Sole Panelist

Date: July 7, 2023