

ADMINISTRATIVE PANEL DECISION

Equifax Inc. v. Wis INC

Case No. D2023-3582

1. The Parties

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

The Respondent is Wis INC, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <equifaxsecure2017.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 24, 2023. On August 25, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 28, 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 (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 29, 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 date.

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 August 31, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 20, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 21, 2023.

The Center appointed Theda König Horowicz as the sole panelist in this matter on September 26, 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 owner of the trademark EQUIFAX, which it uses in the United States and internationally.

The Complainant is a provider of information solutions and human resources business process outsourcing services for businesses, governments, and consumers. These services include credit checks and reporting. Its business dates back to 1913 (and its predecessor company dates back to 1899) and it started using and registering the trademark EQUIFAX in 1975. Headquartered in Atlanta, Georgia, United States, the Complainant operates or has investments in 24 countries in North, Central, and South America, Europe, and the Asia Pacific region. The Complainant employs approximately 11,000 people worldwide.

The Complainant owns a number of trademark registrations worldwide consisting of or containing the element EQUIFAX, e.g., United States registration for the EQUIFAX word mark number 1,027,544 (first used in commerce on March 4, 1975; registered on December 16, 1975).

It also owns the domain name <equifax.com> which was created on February 21, 1995, and which is used for its primary website.

The disputed domain name was registered on July 3, 2023.

At the time of the filing of the Complaint, the disputed domain name redirected visitors sometimes to a parked page with Pay-Per-Click (“PPC”) links for services related to the Complainant. The same day, at other times, the disputed domain name was used in connection with “tech support scam”, redirecting to a website that falsely informs Internet visitors that they encountered a Microsoft Firewall Alert.

5. Parties’ Contentions

A. Complainant

The Complainant is the owner of many trademark registrations consisting of or including the element EQUIFAX and that it has a strong reputation for the services under this trademark. It has a strong U.S. and international presence, also under the domain name, <equifax.com>. The disputed domain name is confusingly similar to the above-mentioned EQUIFAX trademark which has been recognized as well known by several UDRP panels in previous domain name disputes, as it contains the EQUIFAX trademark in its entirety, simply adding the word “secure” and the year “2017”. Previous panels have found that domain names containing EQUIFAX and the term “security” have been found to be confusingly similar. The generic Top- Level Domain (“gTLD”) “.com” must be disregarded.

The Complainant alleges that the Respondent has no rights or legitimate interests in the disputed domain name, which was registered and used in bad faith. The Complainant did not authorize the Respondent to register the disputed domain name or to use the EQUIFAX trademark in any manner. Furthermore, the disputed domain name redirects internet users to a parked page with PPC links for services related to the Complainant and/or the EQUIFAX trademark which is not a *bona fide* offering of goods or services and has a clearly commercial use. In addition, the Respondent has configured MX records for the disputed domain name, enabling the Respondent to send and receive emails with addresses that use the disputed domain name. The Respondent is also using the disputed domain name to redirect Internet users to a so-called “tech support scam” webpage which falsely informs them that they have encountered Microsoft Firewall Alerts. The Respondent has never been commonly known by the disputed domain name and has never acquired any trademark or service mark and thus, it has no rights in respect of the disputed domain name.

The Complainant further alleges that the disputed domain name was registered in bad faith, notably as it is implausible that the Respondent did not know about the well-known EQUIFAX trademark when registering the disputed domain name. For these same reasons as described above (redirection to a PPC webpage and to a “tech support scam” webpage, with the configuration of MX records), the Complainant states that the disputed domain name is being used in bad faith.

In the amendment to the Complaint, filed after the identity of the Respondent had been revealed, the Complainant also claims that the Respondent is a serial *cybersquatter* who has lost numerous domain name dispute proceedings.

B. Respondent

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

6. Discussion and Findings

According to paragraph 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, these Rules, and any rules and principles of law that it deems applicable.

Paragraph 4(a) of the Policy directs that a complainant must prove each of the following:

- (i) that the domain name registered by the respondent is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (ii) that the respondent has no rights or legitimate interests in respect of the domain name; and
- (iii) that the domain name has been registered and is being used in bad faith.

Paragraph 4(a) of the Policy states that the burden of proving that all these elements are present lies with the Complainant. At the same time, in accordance with paragraph 14(b) of the Rules, if a party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, the Rules, or any request from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate.

A. Identical or Confusingly Similar

The Complainant has shown to have obtained trademark rights in the EQUIFAX mark.

According to section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), the standing 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 disputed domain name. In cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing.

The Panel finds that the disputed domain name is confusingly similar to the Complainant’s registered trademark EQUIFAX since it contains this mark in its entirety. The addition of the term “secure” and the year “2017” in the disputed domain name does not prevent a finding of confusing similarity as the relevant trademark remains clearly recognizable within the disputed domain name. See section 1.8 of the [WIPO Overview 3.0](#).

The gTLD “.com” is viewed as a standard registration requirement, and as such is typically disregarded under the first element for the assessment of the confusing similarity test. See section 1.11.1 of the [WIPO Overview 3.0](#).

The Panel therefore finds that the conditions in paragraph 4(a)(i) of the Policy are fulfilled in relation to the disputed domain name.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy contains a non-exhaustive list of circumstances that may demonstrate when a respondent has rights or legitimate interests in a domain name. The list includes:

- (i) the use of the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) being commonly known by the domain name; or
- (iii) the making of a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers.

Once the Complainant establishes a *prima facie* case against the Respondent under this ground, the burden of production shifts to the Respondent to rebut it. See section 2.1 of the [WIPO Overview 3.0](#).

The Complainant has made sufficient statements in order to demonstrate that the Respondent has no rights or legitimate interests in the disputed domain name.

In particular, the Complainant has not licensed or otherwise permitted the Respondent to use its trademarks. There is no evidence showing that the Respondent would be commonly known by the disputed domain name or that a legitimate business would be run by the Respondent under the disputed domain name.

The Panel therefore finds that the Complainant has established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name and the burden of production shifts to the Respondent who has chosen not to reply.

The Respondent has not rebutted the Complainant's *prima facie* case, and there is no evidence of the types of circumstances set out in paragraph 4(c) of the Policy that might give rise to rights or legitimate interests in the disputed domain name on the part of the Respondent in these proceedings.

The Panel notes that the disputed domain name resolves, depending on the time of the day, either to a parked page with PPC links for services related to the Complainant or to a so-called "tech support scam" webpage which falsely informs them that they have encountered Microsoft alerts. Neither use qualifies as a legitimate noncommercial or fair use under the Policy. [WIPO Overview 3.0](#), sections 2.9 and 2.13.

As already stated before, nothing is contained in the case file which would show that the disputed domain name has been legitimately noncommercial or fairly used by the Respondent or that the Respondent would have any rights or legitimate interests in the disputed domain name.

The Panel therefore finds that the conditions in paragraph 4(a)(ii) of the Policy are fulfilled in relation to the disputed domain name.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy requires the complainant to prove both registration and use of the domain name in bad faith. Paragraph 4(b) of the Policy provides examples of circumstances which shall be evidence of registration and use 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 registration 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 holder'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 holder 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 the holder's respondent's 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 holder's respondent's website or location or of a product or service on the holder's respondent's website or location.

Accordingly, for the Complainant to succeed, the Panel must be satisfied that the disputed domain name was registered and is being used in bad faith.

Given the circumstances of the case, including the fact that the disputed domain name identically reproduces the Complainant's EQUIFAX trademark, it is inconceivable to the Panel that the Respondent registered the disputed domain name without prior knowledge of the Complainant's trademark and business.

The bad faith use condition is also fulfilled, notably for the reasons already mentioned above under section 6 B.

In addition, panels have held that the use of a domain name for illegal activity (*e.g.*, the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) constitutes bad faith, see [WIPO Overview 3.0](#), section 3.4.

Another indicator of bad faith is the pattern of cybersquatting in which the Respondent has been involved (see, among others, *Vorwerk International AG v. Wis INC*, WIPO Case No. [D2022-4234](#), and *National Federation of State High School Associations v. W S, WIS INC*, WIPO Case No. [D2022-3605](#)). This pattern further supports a finding of bad faith according to paragraph 4(b)(ii) of the Policy (see section 3.1.2 of the [WIPO Overview 3.0](#)).

The Panel therefore finds that the conditions in paragraph 4(a)(iii) of the Policy are fulfilled in relation to the disputed domain name.

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, <equipfaxsecure2017.com>, be transferred to the Complainant.

/Theda König Horowicz/

Theda König Horowicz

Sole Panelist

Date: October 16, 2023