

## ADMINISTRATIVE PANEL DECISION

Equifax Inc. v. Deaveraux Berry  
Case No. D2024-1944

### 1. The Parties

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

The Respondent is Deaveraux Berry, U.S.

### 2. The Domain Name and Registrar

The disputed domain name <equifaxlending.info> is registered with IONOS SE (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 9, 2024. On May 10, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 14, 2024, 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 May 15, 2024, 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 May 19, 2024.

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 May 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 12, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 19, 2024.

The Center appointed Gregory N. Albright as the sole panelist in this matter on June 29, 2024. 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 originally incorporated in 1913. Its predecessor company dates back to 1899.

The Complainant is a leading global provider of information solutions, human resources services, and business process outsourcing services for businesses, governments and consumers. The Complainant offers, among its many other services, a credit reporting service that provides consumers with a summary of their credit history, and certain other information, reported to credit bureaus by lenders and creditors.

The Complainant is headquartered in Atlanta, Georgia (U.S). The Complainant operates or has investments in 24 countries in North America, Central and South America, Europe, and the Asia Pacific region. The Complainant employs approximately 11,000 people worldwide.

The Complainant owns at least 221 trademark registrations in at least 56 jurisdictions around the world for marks that consist of or contain the word "Equifax," which was first used in commerce and registered in 1975. The Complainant's registrations for the EQUIFAX trademark in the United States include:

- EQUIFAX: U.S. Reg. No. 1,027,544  
(first used in commerce March 4, 1975; registered December 16, 1975) for use in connection with "insurance risk information reporting services concerning potential policy holders."
- EQUIFAX: U.S. Reg. No. 1,045,574  
(first used in commerce March 4, 1975; registered August 3, 1976) for use in connection with "conducting investigations and reporting on individuals and firms concerning credit, character and finances..."
- EQUIFAX: U.S. Reg. No. 1,644,585  
(first used in commerce March 4, 1975; registered May 14, 1991) for use in connection with, inter alia, "providing on-line access to computer databases containing information relating to applicants for insurance, credit, mortgage loans, and employment."

The Complainant is also the registrant of the domain name <equifax.com>, which was created on February 21, 1995.

The disputed domain name was created on February 20, 2024. The Respondent is not using the disputed domain name with an active website. Responding has, however, configured MX records for the disputed domain name, enabling the Respondent to send and receive emails with addresses that use the disputed domain name.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant contends that it has satisfied each of the elements required under the Policy for transfer of the disputed domain name.

Notably, the Complainant asserts that it owns rights in the EQUIFAX trademark, and cites numerous decisions by previous panels under the Policy that have found the Complainant's mark is well known. The Complainant also asserts that the disputed domain name is confusingly similar to the Complainant's EQUIFAX mark because the disputed domain name contains the entirety of the EQUIFAX mark, simply adding the word "lending."

The Complainant also asserts 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 trademark in any manner. Further, the Respondent is not using the disputed domain name in connection with an active website, and passive

holding of a domain name is not a bona fide offering of goods or services. To the Complainant's knowledge, the Respondent has never been commonly known by the disputed domain name and has never acquired any trademark or service mark rights therein.

The Complainant also asserts that the Respondent registered and is using the disputed domain name in bad faith. The EQUIFAX mark is famous or widely known, given the large number of the Complainant's trademark registrations, in 56 jurisdictions, dating back 49 years. It is therefore implausible that the Respondent was unaware of the Complainant when it registered the disputed domain name. Because the disputed domain name is so obviously connected with the Complainant, the Respondent's actions suggest opportunistic bad faith in violation of the Policy. The Complainant therefore contends that the Respondent registered the disputed domain name in bad faith.

Bad faith use is also present, the Complainant contends, under the well-established doctrine of "passive holding." Several factors support this conclusion: (a) the EQUIFAX mark is very distinctive and has a strong reputation; (b) the Respondent's identity is concealed in the Whois record as "REDACTED FOR PRIVACY / 1&1 Internet Inc."; and (c) it is impossible to identify any good faith use that the Respondent might make of the dispute domain name.

Furthermore, the Respondent has established MX records for the disputed domain name, which gives rise to the possibility that the Respondent intends to use the disputed domain name to send emails as part of a fraudulent phishing scheme.

Finally, the Respondent is also the registrant of the domain names <equifaxlending.blog>, <equifaxlending.cloud>, <equifaxlending.online>, <equifaxlending.site>, and <equifaxlending.website>, which are the subject of *Equifax Inc. v. Deaveraux Berry, AAA Green inc*, WIPO Case No. [D2024-1341](#). The Complainant contends by registering the five domain names at issue in *Equifax Inc. v. Deaveraux Berry, AAA Green inc*, WIPO Case No. [D2024-1341](#) in addition to the disputed domain name in this case the Respondent is engaged in an abusive pattern of conduct intended to prevent the owner of the trademark from reflecting the mark in a corresponding domain name.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **A. Identical or Confusingly Similar**

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name.

Although the addition of other terms – here "lending" – may bear on assessment of the second and third elements, the Panel finds the addition of "lending" to the EQUIFAX mark in the disputed domain name does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

## **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

More particularly, the Respondent has not presented any evidence that it is licensed or otherwise authorized to use the EQUIFAX mark as part of the disputed domain name, or that it is commonly known by the disputed domain name. In addition, since the disputed domain name is not being used in connection with an active website, the Respondent is neither using it in connection with a bona fide offering of goods or services nor making a legitimate noncommercial or fair use of the disputed domain name. And given the composition of the disputed domain name – combining the EQUIFAX mark with the term “lending,” which is descriptive of some of the Complainant’s services – the disputed domain name carries a risk of implied affiliation with the Complainant, contrary to fact, which is not fair use. [WIPO Overview 3.0](#), section 2.5.1.

The Panel finds the second element of the Policy has been established.

## **C. Registered and Used in Bad Faith**

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Respondent registered the disputed domain name on February 20, 2024 – decades after the Complainant’s registrations of the EQUIFAX mark. In view of the Complainant’s longstanding and widespread use of the EQUIFAX mark, and its many trademark registrations, it is implausible that the Respondent was unaware of the Complainant and its EQUIFAX mark when the Respondent registered the disputed domain name.

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding, and have identified factors that may be considered relevant. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel: (1) finds that the EQUIFAX mark is distinctive, well-known, and enjoys a wide reputation (see *Equifax Inc. v. Deaveraux Berry, AAA Gleen inc*, WIPO Case No. [D2024-1341](#), and decisions cited therein); (2) notes that the Respondent did not respond to the Complaint; and (3) deems it implausible that the Respondent might make good faith use of the disputed domain name.

The Panel also notes that the Respondent has established MX records for the disputed domain name, which creates a risk that the Respondent might use the disputed domain name to send emails that falsely suggests the Respondent’s affiliation with the Complainant – for example, as part of a fraudulent phishing scheme. And the Panel notes that the Respondent has registered six domain names that incorporate the EQUIFAX

mark – including the disputed domain name in this case and the five in *Equifax Inc. v. Deaveraux Berry, AAA Geeen inc*, WIPO Case No. [D2024-1341](#) – which shows a pattern of conduct that interferes with the Complainant's ability to control use of its mark in domain names.

In sum, the Panel finds that the Respondent's registration and passive holding of the disputed domain name constitutes opportunistic bad faith.

The Panel finds the Complainant has established the third element 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 <equifaxlending.info> be transferred to the Complainant.

/Gregory N. Albright/

**Gregory N. Albright**

Sole Panelist

Date: July 13, 2024