

ADMINISTRATIVE PANEL DECISION

Equifax Inc. v. Domain Admin, TotalDomain Privacy Ltd
Case No. D2024-2313

1. The Parties

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

The Respondent is Domain Admin, TotalDomain Privacy Ltd, Panama.

2. The Domain Name and Registrar

The disputed domain name <equifaxfreeze.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on June 5, 2024. On June 6, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 7, 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 (Domain Admin, Privacy Protect, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on the same day, 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 day.

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 June 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 1, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 2, 2024.

The Center appointed Stefan Bojovic as the sole panelist in this matter on July 3, 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 is a global provider of information solutions and human resources business process outsourcing services for business, governments, and consumers. The Complainant is headquartered in Atlanta, Georgia, and 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 employees worldwide.

Among other services, the Complaint offers 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 has provided evidence on ownership of over 200 trademark registrations in at least 56 jurisdictions around the world for marks that consist of or contain the word "Equifax", including the following:

- EQUIFAX, US Trademark Registration No. 1027544 (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, US Trademark Registration No. 1045574 (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, US Trademark Registration No. 1644585 (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."

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

The disputed domain name was registered on December 31, 2015 and it redirects visitors to various websites (some of which are related to adult content and online gambling). The Complainant has produced undisputed evidence that the disputed domain name also redirects to a website that provides a false warning to visitors: "Your iPhone has been locked due to illegal activity. Your Apple Account has been disabled!". This website then instructs visitors to "call Apple Support" at a displayed telephone number in order to "unlock" their iPhone devices.

5. Parties' Contentions

A. Complainant

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

Notably, the Complainant contends that the disputed domain name contains the Complainant's EQUIFAX Trademark in its entirety, simply adding the word "freeze" at the end of the disputed domain name making the disputed domain name confusingly similar to the Complainant's EQUIFAX trademark. The Complainant

further adds that inclusion of the word “freeze” at the end of the disputed domain name may actually increase confusing similarity, given that this word describes an activity associated with the Complainant’s credit reporting service, that is, the process by which a consumer can freeze, or limit access to, a credit report.

With reference to rights or legitimate interests in respect of the disputed domain name, the Complainant contends that it has never assigned, granted, licensed, sold, transferred or in any way authorized the Respondent to register or use the EQUIFAX trademark in any manner. The Respondent has never been commonly known by the disputed domain name and has never acquired any trademark or service mark rights in the disputed domain name. Furthermore, the use of the disputed domain name in connection with a tech support scam that falsely informs visitors that their “iPhone has been locked due to illegal activity,” that their “Apple Account has been disabled,” and that they should “call Apple Support” at a displayed telephone number (which is not associated with Apple) “to unlock it”, cannot be observed as a use in connection with a bona fide offering of goods or services. Also, the Complainant underlines that this is not the first time that its EQUIFAX trademark was used by unauthorized third party in connection with tech support scam (*Equifax Inc. v. Domain Administrator / Fundacion Privacy Services LTD*, WIPO Case No. [D2023-5147](#)).

With reference to the circumstances evidencing bad faith, the Complainant states that its EQUIFAX is well-known trademark (as determined by a number of previous UDRP panels) and that it is implausible that the Respondent was unaware of the Complainant and its trademark when registered the disputed domain name. In addition, the use of the disputed domain name for so-called tech support scam clearly demonstrates bad faith on the Respondent’s side. The Complainant also underlines that MX records (Mail exchange record that enables sending and receiving of emails) are configured on the disputed domain name, which is further evidence of bad faith because such records give rise to the strong possibility that the Respondent intended or intends to use the disputed domain name to send emails as part of a fraudulent phishing scheme.

B. Respondent

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

6. Discussion and Findings

According to 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.” Paragraph 4(a) of the Policy stipulates that the complainant must prove each of the following:

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

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. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here “freeze”, may bear on assessment of the second and third elements, the Panel finds the addition of such term 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.

In addition, it is well established that “.com”, as a generic Top-Level Domain, can be disregarded in the assessment of the confusing similarity between the disputed domain name and the Complainant’s trademark. [WIPO Overview 3.0](#), section 1.11.1.

The Panel, therefore, finds that 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.

The Panel notes that there seems to be no relationship between the Respondent and the Complainant and that the Respondent is not a licensee of the Complainant, nor has the Respondent otherwise obtained an authorization to use the Complainant’s EQUIFAX trademark. There appears to be no element from which the Panel could infer the Respondent’s rights and legitimate interests in the disputed domain name, or that the Respondent might be commonly known by the disputed domain name.

Furthermore, based on the undisputed evidence provided by the Complainant, the disputed domain name redirects to a website that displays false warning to visitors that their iPhone device and account have been locked and invites visitors to contact “Apple Support” in order to unlock their devices. This type of Internet fraud is known as a “tech support scam” and previous panels have consistently held that use of a disputed domain name for such scam cannot be considered as a bona fide offering of goods or services nor as a legitimate noncommercial or fair use of the disputed domain name (see, in particular, *Twitter, Inc. v. Whois Agent, Whois Privacy Protection Service, Inc. / Domain Support*, WIPO Case No. [D2015-1488](#), *Equifax Inc. v. Domain Administrator / Fundacion Privacy Services LTD*, WIPO Case No. [D2023-5147](#) and *Teladoc Health, Inc. v. Domain Administrator, Fundacion Privacy Services LTD*, WIPO Case No. [D2024-2118](#)).

In connection with the above, it should be noted that panels have held that the use of a domain name for illegal activity (such as for tech support scam as in this case) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Having in mind the above, 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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Panel notes that the Respondent must have been aware of the Complainant and its EQUIFAX trademark, especially having in mind that EQUIFAX is a fanciful and distinctive trademark. It is, therefore, highly unlikely that the Respondent decided to register a domain name containing this trademark in its entirety without having the Complainant in mind when doing so. It should be also borne in mind that the first registration and use of EQUIFAX trademark predates the registration of the disputed domain name for 40 years, making it unlikely that the Respondent was not aware of the Complainant's trademark at the time of registration of the disputed domain name. Also, the choice of additional word "freeze" (that can be understood as the reference to the process by which a consumer can freeze, or limit access to, a credit report) further indicates that the Respondent had the Complainant and its EQUIFAX trademark in mind when registering the disputed domain name.

Due to the above, the Panel finds that the disputed domain name has been registered in bad faith.

Further, based on the undisputed evidence provided by the Complainant, the disputed domain name redirects to various websites, including a website that displays false warning to visitors that their iPhone device and account have been locked and invites visitors to contact "Apple Support" in order to unlock their devices. In accordance with the previous UDRP practice, use of the disputed domain name for "tech support scam" manifestly indicates bad faith on the Respondent's side (*Twitter, Inc. v. Whois Agent, Whois Privacy Protection Service, Inc. / Domain Support*, WIPO Case No. [D2015-1488](#), *Equifax Inc. v. Domain Administrator / Fundacion Privacy Services LTD*, WIPO Case No. [D2023-5147](#) and *Teladoc Health, Inc. v. Domain Administrator, Fundacion Privacy Services LTD*, WIPO Case No. [D2024-2118](#)).

The Panel also considers that configuration of mail exchange records (MX records) on the disputed domain name can also contribute to the Respondent's bad faith. Previous panels have held that mere configuration of such records can represent a severe risk of phishing or other fraudulent and abusive activities (see, for example, *Carrefour v. WhoisGuard, Inc., WhoisGuard Protected / Robert Jurek, Katrin Kafut, Purchasing clerk, Starship Tapes & Records*, WIPO Case No. [D2017-2533](#) and *Accenture Global Services Limited v. WhoisGuard Protected, WhoisGuard, Inc. / Basikta James*, WIPO Case No. [D2020-2955](#)). In a situation where a disputed domain name is confusingly similar to a third-party trademark that enjoys certain reputation, it is indeed, rather difficult to imagine any good faith use of the mail server attached to such a domain name. In the case at hand, the disputed domain name contains the Complainant's EQUIFAX trademark in its entirety and in combination with additional word "freeze", it makes a clear reference to the Complainant and its activities.

In accordance with the above, panels have held that the use of a domain name for illegal activity (such as tech support scam and phishing) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

Therefore, The Panel finds that the disputed domain name has been both registered and is being used in bad faith, and consequently that 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 <equifaxfreeze.com> be transferred to the Complainant.

/Stefan Bojovic/

Stefan Bojovic

Sole Panelist

Date: July 17, 2024