

## **ADMINISTRATIVE PANEL DECISION**

Equifax Inc v. Gerson Ortiz  
Case No. D2024-2801

### **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 Gerson Ortiz, Ecuador.

### **2. The Domain Names and Registrars**

The disputed domain names <equifaxecuador.blog> and <equifaxecuador.pro> are registered with eNom, LLC and Register SPA (the “Registrar”), respectively.

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 10, 2024. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. Also on July 10, 2024, 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 together with the amended 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 July 15, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 4, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 12, 2024.

The Center appointed Ganna Prokhorova as the sole panelist in this matter on August 15, 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 leader in providing information services and human resources outsourcing solutions. It was incorporated under the laws of the State of Georgia, U.S., in 1913, with its predecessor company dating back to 1899.

The Complainant owns a portfolio of 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 trade and registered in 1975.

The Complainant’s registrations for the EQUIFAX trademark in the United States include the following:

- United States Trademark for EQUIFAX under Reg. No. 1027544, registered December 16, 1975;
- United States Trademark for EQUIFAX under Reg. No. 1045574, registered August 3, 1976;
- United States Trademark for EQUIFAX under Reg. No. 1644585, registered May 14, 1991.

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

The disputed domain names were registered on June 21, 2024, and have been used in connection with websites that falsely appear to be websites (in English and in Spanish, respectively) for or at least associated with the Complainant by using the EQUIFAX trademark. These websites feature a favicon that is almost identical to the one used by the Complainant on its official website. One of the sites includes a statement that “THE EQUIFAX MARKS USED HEREIN ARE TRADEMARKS OF EQUIFAX INC.”; offer to help consumers “[o]ptimize your credit history with our specialized services”, and advertise services to help consumers “[c]heck your credit, organize your finances and improve your financial health”, among other things.

The Respondent has configured MX records for both of the disputed domain names, enabling the Respondent to send and receive emails using addresses associated with the disputed domain names.

#### **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 names.

Notably, the Complainant contends that:

- (1) The disputed domain names are confusingly similar to the Complainant’s EQUIFAX trademark. The Complainant has rights to the EQUIFAX trademark. The Complainant’s trademark EQUIFAX is well-known. Each of the disputed domain names contains the EQUIFAX trademark in its entirety, simply adding the geographical word “ecuador”, which is a country in which the Complainant has operated for more than 20 years.
- (2) The Respondent has no rights or legitimate interests in the disputed domain names. The Complainant has never assigned, granted, licensed, sold, transferred, or otherwise authorized the Respondent to register or use the EQUIFAX trademark in any manner. By using the disputed domain names in connection with websites that falsely appear to be associated with the Complainant, the Respondent has failed to create a bona fide offering of goods or services. The Respondent has never been commonly known by either of the disputed domain names and has not acquired any trademark rights in them.

- (3) The disputed domain names should be considered as having been registered and used in bad faith by the Respondent. The EQUIFAX trademark is clearly famous and/or widely known. Because the disputed domain names are so obviously connected with the Complainant, the Respondent's actions suggest opportunistic bad faith. By using the disputed domain names in connection with a website that falsely appears to be associated with the Complainant, and by registering these domain names, the Respondent has acted in bad faith to prevent the Complainant from reflecting the mark in the disputed domain names, which is confirmed by a pattern of such conduct.

The Complainant requests transfer of the disputed domain names.

## **B. Respondent**

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

## **6. Discussion and Findings**

To succeed, in a UDRP complaint, complainant must demonstrate that all the elements listed in paragraph 4(a) of the Policy have been satisfied, as following:

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

The Respondent had 20 days to submit a response in accordance with paragraph 5(a) of the Rules and failed to do so. Paragraph 5(f) of the Rules establishes that if a respondent does not respond to the Complaint, in the absence of exceptional circumstances, the Panel's decision shall be based upon the Complaint. The Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complainant's contentions.

However, concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See, section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

It is further noted that the Panel has taken note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the consensus views captured therein.

### **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 3.0](#), section 1.7.

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

The entirety of the trademark is reproduced within the disputed domain names, following the term "ecuador", which does not prevent a finding of confusing similarity between the disputed domain names and the mark under the Policy, paragraph 4(a)(i), whereas general Top Level Domains ("gTLD") ".blog" and ".pro" are viewed as a standard registration requirement and as such are disregarded under the first element confusing similarity test. See [WIPO Overview 3.0](#), sections 1.7, 1.8 and 1.11.1. Bearing that in mind, the Panel accordingly holds the disputed domain names are confusingly similar to the Complainant's trademark EQUIFAX.

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.

The Panel found that the Respondent has no trademark rights related to the disputed domain names. The Panel also has not found evidence that the Respondent has been commonly known by the disputed domain names.

The Complainant has not licensed, authorized, or permitted the Respondent to register the disputed domain names incorporating the Complainant’s mark. The Panel also takes into account that the Respondent is not sponsored by or legitimately affiliated with the Complainant in any way.

The Panel further also considers that using the disputed domain names in connection with websites that falsely appear to be websites for, or otherwise associated with, the Complainant – not only by using the EQUIFAX trademark in the disputed domain names but also by using the EQUIFAX trademark on the websites; by using a favicon that is almost identical to the favicon used by the Complainant on its own website; by stating that “THE EQUIFAX MARKS USED HEREIN ARE TRADEMARKS OF EQUIFAX INC.”; by offering to help consumers “[o]ptimize your credit history with our specialized services”; and by advertising that it helps consumers “[c]heck your credit, organize your finances and improve your financial health”; among many other things – the Respondent cannot establish rights or legitimate interests in the disputed domain names. As set forth in section 2.13 of [WIPO Overview 3.0](#): “Panels have categorically held that the use of a domain name for illegal activity (e.g., ... impersonation) can never confer rights or legitimate interests on a respondent.

The Panel finds, therefore, that 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.

Based on the given evidence, the disputed domain names were registered and are being used in bad faith. The disputed domain names were registered long after the Complainant has registered the EQUIFAX trademark and the use of the Complainant’s EQUIFAX trademark cannot be a coincidence. The EQUIFAX trademark is used by the Complainant to conduct its business and the Complainant has used the trademark for over 47 years. The Panel is satisfied that the Respondent was aware of the Complainant and its EQUIFAX trademark when he or she registered the disputed domain names.

In addition, by using the disputed domain names in connection with websites that falsely appears to be websites for or associated with the Complainant, the Respondent is clearly creating a likelihood of confusion with the EQUIFAX trademark, constituting bad faith pursuant to paragraph 4(b)(iv) of the Policy.

Furthermore, the evidence on the record provided by the Complainant shows that the Respondent set up MX-records for the disputed domain names, indicating that the latter may be being used for fraudulent email communications. In particular, as it is clearly seen from the case file, the MX records enable the Respondent to use the disputed domain names to send and receive email and is further evidence of bad faith because it gives rise to the strong possibility that the Respondent intended or intends to use the disputed domain names to send emails as part of a fraudulent phishing scheme.

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

## **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 names <equifaxecuador.blog> and <equifaxecuador.pro> be transferred to the Complainant.

*/Ganna Prokhorova/*

**Ganna Prokhorova**

Sole Panelist

Date: August 28, 2024