

ADMINISTRATIVE PANEL DECISION

Equifax Inc. v. Tajamul Nabi

Case No. D2024-3674

1. The Parties

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

The Respondent is Tajamul Nabi, India.

2. The Domain Name and Registrar

The disputed domain name <equifaxs.site> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 11, 2024. On September 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 11, 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, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 12, 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 September 15, 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 September 17, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 7, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 7, 2024.

The Center appointed Alexander Duisberg as the sole panelist in this matter on October 16, 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 provider of information solutions and human resources business process outsourcing services for businesses, governments, and consumers, originally incorporated under the laws of the State of Georgia (US) in 1913, dating its predecessor back to 1899.

Among its services, the Complainant 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 rights to the following non exhaustive list of trademarks containing the word “Equifax” (“EQUIFAX Trademarks”):

United States Trademark Registration No. 1,027,544 for the service mark EQUIFAX, in class 36, filed on March 10, 1975, and registered on December 16, 1975, subsequently renewed;
United States Trademark Registration No. 1,045,574 for the service mark EQUIFAX, in class 35, filed on July 9, 1975, and registered on August 3, 1976, subsequently renewed; and
United States Trademark Registration No. 1,644,585 for the service mark EQUIFAX, in classes 35, 36, and 42, filed on February 9, 1990, and registered on May 14, 1991, subsequently renewed.

Additionally, the Complainant is the registrant of the domain name <equifax.com>. The Complainant uses the domain name <equifax.com> in connection with its primary website.

The disputed domain name <equifaxs.site> was registered on February 9, 2024 and leads to an inactive website.

The Respondent did not reply to the Complaint.

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.

The Complainant asserts to operate or have investments in 24 countries in North America, Central and South America, Europe, and the Asia Pacific region, and employs approximately 11,000 people worldwide.

The Complainant further states that previous panels under the Policy have found that the Complainant has rights in and to the EQUIFAX Trademarks, having panels stated that: the “Complainant’s trademark EQUIFAX is well-known”. (*Equifax Inc. v. Super Privacy Service LTD c/o Dynadot / Babacan Gunduz*, WIPO Case No. [D2021-3814](#)); the EQUIFAX trademark “enjoy[s] a wide reputation and can be considered as a well-known trademark in the industry.” (*Equifax Inc. v. Balticsea LLC, Balcsea LLC*, WIPO Case No. [D2022-2497](#)); “the notoriety of the Complainant and of its [EQUIFAX] Trade Mark in respect of the wide range of services provided by the Complainant under the [EQUIFAX] Trade Mark” (*Equifax Inc. v. Daiyu Shao*, WIPO Case No. [D2022-0913](#)); “the notoriety of the [EQUIFAX] Mark” (*Equifax Inc. v. Rakshita Mercantile Private Limited*, WIPO Case No. [D2022-1947](#)); and that the “Complainant’s [EQUIFAX] mark is well-known” (*Equifax Inc. v. Domain Controller, Yoyo Email / Yoyo.Email Ltd.*, WIPO Case No. [D2015-0880](#)).

According to the Complainant, the disputed domain name is confusingly similar to the Complainant's EQUIFAX Trademarks, containing the EQUIFAX Trademarks in its entirety, simply adding the letter "s" at the end, what does nothing to alleviate the confusing similarity between the disputed domain name and the Complainant's trademark.

Furthermore, the Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name given that: (i) the Complainant has never assigned, granted, licensed, sold, transferred or in any way authorized the Respondent to register or use the EQUIFAX Trademarks in any manner; (ii) by failing to use the disputed domain name in connection with an active website the Respondent clearly has not used the disputed domain name "in connection with a bona fide offering of goods or services" and, therefore, cannot establish rights or legitimate interests pursuant to paragraph 4(c)(i) of the Policy; and (iii) 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.

The Complainant points out that given that the EQUIFAX Trademarks are famous trademarks, protected by 221 registrations in 56 jurisdictions worldwide, it is implausible that the Respondent was unaware of the Complainant when registering the disputed domain name. Also, according to the Complainant, given the fame of the Complainant's trademark, there was opportunistic bad faith on the Respondent's side when registering the disputed domain name.

As to the use of the disputed domain name in bad faith the Complainant contends that the passive holding of a domain name has already been found an indicator of the Respondent's bad faith. The Complainant contends that the Respondent has established MX records for the disputed domain name, which enables the Respondent to use the disputed domain name to send and receive emails 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 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 4(a) of the Policy, the Complainant must prove each of the 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 Panel acknowledges the consensus view – as set forth in paragraph 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (the "[WIPO Overview 3.0](#)") – that the Respondent's default to respond to the Complaint does not automatically result in a decision in favor of the Complainant. The Complainant must establish each of the three elements required by paragraph 4(a) of the Policy. Although the Panel may draw appropriate inferences from the Respondent's default (e.g., to regard factual allegations which are not inherently implausible as being true), paragraph 4 of the Policy requires the Complainant to support its assertions with actual evidence in order to succeed in the UDRP proceeding. In view of the Panel, the Complainant has established sufficient evidence in its favor in the case at hand.

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 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.

The disputed domain name <equifaxs.site> only differs from the Complainant's EQUIFAX Trademarks by the addition of the letter "s" at the end of the disputed domain name. The similarity test under the UDRP involves a straightforward comparison which besides the visual appearance can also involve aural and phonetic aspects (see [WIPO Overview 3.0](#), section 1.7). The consideration of aural and phonetic aspects is in line with previous UDRP decisions (see *Wikimedia Foundation, Inc. v. Jorge Navarro*, WIPO Case No. [D2017-1914](#); *H & M Hennes & Mauritz AB v. Simon Maufe, Akinsanya Odunayo Emmanuel and Nelson Rivaldo*, WIPO Case No. [D2014-0225](#)).

The addition of the letter "s" constitutes only minimal phonetic and aural differences when spoken or heard in conjunction with the word "Equifax". Furthermore, the addition of the letter "s" is a typographical variation of the EQUIFAX Trademarks.

The gTLD ".site" is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.

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.

In line with previous UDRP decisions, it is sufficient for the Complainant to make a prima facie showing that the Respondent has no rights or legitimate interests in the disputed domain name in order to shift the burden of production of evidence to the Respondent (see *OSRAM GmbH. v. Mohammed Rafi/Domain Admin, Privacy Protection Service INC d/b/a PrivacyProtect.org*, WIPO Case No. [D2015-1149](#); *B-Boy TV Ltd v. bboytv.com c/o Whois Privacy Service / Chief Rocka LTD, formerly named BreakStation LTD.*, WIPO Case No. [D2012-2006](#); *Wal-Mart Stores, Inc. v. WalMart Careers, Inc.*, WIPO Case No. [D2012-0285](#); *Skipton Building Society v. skiptonassetmanagement.com, Private Registration*, WIPO Case No. [D2011-0222](#); *Evolution AB v. tom scholes*, WIPO Case No. [D2023-2030](#); *Canva Pty Ltd v. JOSE VALDIR DE LIMA*, WIPO Case No. [D2023-1736](#); *Streamotion Pty Ltd v. Ovi Khan*, WIPO Case No. [D2022-3784](#)).

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 Complainant's EQUIFAX Trademarks are well-known and have been registered and used for many years preceding the date of the Respondent's registration of the disputed domain name. The Complainant has neither authorized the Respondent to use the EQUIFAX Trademarks nor is the Respondent in whatever manner affiliated with the Complainant.

The Respondent cannot be considered to be making a bona fide offering of goods or services within the meaning of paragraph 4(c)(i) of the Policy referred to above, given that the disputed domain name is currently not being used to lead to an active website. Neither can the Respondent be said to be making a legitimate non-commercial or fair use of the disputed domain name within the meaning of paragraph 4(c)(iii), without any active usage of the disputed domain name (see *Arnold Clark Automobiles Limited v. Whois Agent, Whois Privacy Protection Service, Inc. / Arnold Clark*, WIPO Case No. [D2018-0571](#)). It is highly unlikely that the Respondent is commonly known by the name "Equifax". In any case, he has not submitted anything in this regard even though the burden of production has shifted to the Respondent.

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.

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. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant's trademark, and the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put. [WIPO Overview 3.0](#), section 3.3.

The distinctive and well known character of the EQUIFAX Trademarks has been well established in prior decisions under the UDRP (*Equifax Inc. v. Super Privacy Service LTD c/o Dynadot / Babacan Gunduz*, WIPO Case No. [D2021-3814](#); *Equifax Inc. v. Balticsea LLC, Balcsea LLC*, WIPO Case No. [D2022-2497](#); *Equifax Inc. v. Daiyu Shao*, WIPO Case No. [D2022-0913](#); *Equifax Inc. v. Rakshita Mercantile Private Limited*, WIPO Case No. [D2022-1947](#); *Equifax Inc. v. Domain Controller, Yoyo Email / Yoyo.Email Ltd.*, WIPO Case No. [D2015-0880](#)). Therefore, the Panel holds that the Respondent must have been certainly aware of the Complainant's trademark and the registration of the Complainant's trademark prior to the registration of the disputed domain name.

Furthermore, the Respondent failed to submit a response or provide evidence regarding good faith use.

The evidence in the record provided by Complainant shows that the Respondent has established MX records to the disputed domain name indicating that the disputed domain name could be used in the future for fraudulent email communications (*Swiss Re Ltd v. Domain Administrator, Fundacion Privacy Services LTD*, WIPO Case No. [D2021-1549](#)). Given these circumstances and the facts that Respondent failed to submit a response or to provide any evidence of actual or contemplated good-faith use, and that Respondent has concealed its identity (see section 3.6, [WIPO Overview 3.0](#); *Marlette Funding, LLC v. Whois Privacy Corp*, WIPO Case No. [D2018-1907](#); *AB Electrolux v. Domain Admin, Whois Privacy Corp*, WIPO Case No. [D2022-0241](#)), the Panel is left to conclude that Respondent's use of the disputed domain name is in bad faith.

Therefore, the Panel finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

The Panel finds 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 <equifax.site> be transferred to the Complainant.

/Alexander Duisberg/

Alexander Duisberg

Sole Panelist

Date: October 30, 2024