

ADMINISTRATIVE PANEL DECISION

Equifax Inc. v. Wesley Karr
Case No. D2023-3413

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 Wesley Karr, U.S.

2. The Domain Name and Registrar

The disputed domain name <uquifax.com> is registered with Sea Wasp, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 10, 2023. On August 10, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 14, 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 (REDACTED FOR PRIVACY / REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 17, 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 August 17, 2023.

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 18, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 7, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 20, 2023.

The Center appointed Ezgi Baklacı Güllökar 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 a company active in the information solutions and human resources business process outsourcing services, providing services to their clients for over 100 years. The Complainant operates in 24 countries and has approximately 11,000 employees worldwide.

The Complainant is also the owner of the below trademark registrations *inter alia* as demonstrated with the Annex 9:

- U.S. trademark registration No. 1027544 EQUIFAX registered on December 16, 1975
- U.S. trademark registration No. 1045574 EQUIFAX registered on August 3, 1976
- U.S. trademark registration No. 1644585 EQUIFAX registered on May 14, 1991

Further, the Complainant owns minimum of 221 trademark registrations in at least 56 jurisdictions around the globe with the main element EQUIFAX, as evidenced by the Annex 8.

The Complainant also owns and uses the domain name <equifax.com> and the domain name was registered on February 21, 1995.

The disputed domain name was registered on October 21, 2005, and currently redirects Internet traffic to pay-per-click websites.

5. Parties' Contentions

A. Complainant

The Complainant contends that each of the three elements specified in paragraph 4(a) of the Policy is satisfied in the present case, as follows:

Identical or confusingly similar

The Complainant argues that the disputed domain name is confusingly similar to EQUIFAX mark in full, the sole difference being the replacement of the letter "e" with the letter "u". The Complainant refers to a number of previous UDRP decisions to argue that misspelling as well as the addition of a gTLD to a complainant's mark does not prevent a confusing similarity finding for purposes of the Policy.

Rights or legitimate interests

The Complainant argues that the Respondent has no affiliation with the Complainant and the Complainant has not given the Respondent permission to register and/or use the Complainant's trademarks in any manner (*i.e.*, license, transferal, sale of the domain name *inter alia*).

In addition, the Complainant argues that the Respondent is not known by the disputed domain name and the Complainant submits that the Respondent is not authorized to use the Complainant's trademark, nor the Respondent is the licensee of the mark.

Furthermore, the Respondent has neither made use of the disputed domain name nor engaged in any demonstrable preparations to use it in connection with a *bona fide* offering of goods or services, instead the

Respondent is using the disputed domain name to divert Internet traffic to websites that contain pay-per-click or monetized parking page that includes links for services related to the Complainant (demonstrated via Annex 7) for the Respondent's financial gain as demonstrative of bad faith registration and use under the Policy. This conduct it is said to be causing disruption of the Complainant's business and creating a likelihood of confusion regarding source, sponsorship affiliation or endorsement. The Complainant further argues that such uses cannot be accepted within the scope of noncommercial or fair use.

The disputed domain name was registered and used in bad faith.

The Complainant asserts that mere fact of registration of the disputed domain name is alone sufficient to give rise to an inference of bad faith registration and use considering the well-known status of the Complainant's EQUIFAX mark, it is inconceivable that the Respondent did not have knowledge of the Complainant's mark before deciding to register the disputed domain name and referred to numerous previous Panel decisions, accepting the well-known status of the trademark EQUIFAX.

Furthermore, the Complainant argues that the disputed domain name is "so obviously connected" with the Complainant and such matter suggests opportunistic bad faith violation of the Policy. It was also emphasized by the Complainant that the Respondent's exploitation of the disputed domain name acquired with or without prior knowledge of the Complainant's established rights to resolve Internet traffic to other websites garnering pay-per-click or monetized parking page for the Respondent's financial gain as demonstrative of bad faith registration and use under the Policy.

In summary, the Complainant asserts that it has established all three elements required under paragraph 4(a) of the Policy for a transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to the trademarks or service marks in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (ii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has demonstrated that it has well-established rights in the EQUIFAX trademarks.

The disputed domain name incorporates the Complainant's trademark by misspelling or the transposition of the letters "e" and "u" of the Complainant's trademarks. This change does not prevent a finding of confusing similarity between the Domain Name and the trademark. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.9. Therefore, the Panel accepts that this is an attempt of typo-squatting.

For the purpose of assessing under paragraph 4(a)(i) of the Policy, the Panel accepts that the generic Top-Level Domain ("gTLD") may indeed be ignored. See [WIPO Overview 3.0](#), section 1.11.1.

In the light of the above, the Panel is of the view that the disputed domain name is confusingly similar to the Complainant's trademarks and the first element of paragraph 4(a) of the Policy is satisfied.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name. While the overall burden of proof in UDRP proceedings is on the Complainant, previous UDRP panels have recognized that proving a Respondent that it lacks rights or legitimate interests in a domain name may result in the often impossible 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. 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 notes that the Respondent is indeed not commonly known by the disputed domain name. The Panel also notes that there is no evidence showing that the Respondent is authorized or licensed to use the Complainant’s EQUIFAX trademarks.

Further, the Panel notes that there is no evidence of the Respondent’s use of, or preparation to use the disputed domain name; and there is also no evidence that the Respondent is making a legitimate noncommercial or fair use under the disputed domain name.

On the contrary, what the evidence submitted by the Complainant establishes, is that the disputed domain name resolves Internet users to websites that contain pay-per-click links that presumably results in click-through revenue for the Respondent’s financial gain. The Panel finds that such conduct cannot by any means be accepted as legitimate noncommercial or fair use activity within the scope of the Policy.

Therefore, the Panel finds that the Respondent does not have rights or any legitimate interests in the disputed domain name within the meaning of Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy provides that a complainant must demonstrate that the disputed domain name has been registered and is being used in bad faith. Bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant’s trademark ([WIPO Overview 3.0](#), section 3.1).

The Panel finds that at the time the disputed domain name was registered, the Respondent had undeniable knowledge of the Complainant’s trademarks EQUIFAX and its derivatives, as the Complainant’s trademarks are highly distinctive, predates the registration date of the disputed domain name by 48 years, and unlikely to be arrived at and registered by accident. The Panel notes from the Complaint and annexes, the extensive use and worldwide registrations of the EQUIFAX trademark. According to the evidence submitted by the Complainant, the Panel finds that the Respondent knew or should have known about the Complainant’s rights as such information can be reached by a quick online search; see *Compart AG v. Compart.com / Vertical Axis Inc.*, WIPO Case No. [D2009-0462](#)).

In addition, previous UDRP panels have held that the mere registration of a domain name that is confusingly similar to a famous or widely known trademark by an unaffiliated entity can by itself create a presumption of bad faith ([WIPO Overview 3.0](#), section 3.1.4). The disputed domain name, being a one-letter typographical variation of the Complainant’s trademark, is so obviously connected with the Complainant and its services that already its very registration by the Respondent, which has no connection with the Complainant, clearly suggests the disputed domain name has been selected with a deliberate intent to create an impression of an association with the Complainant (see *General Motors LLC v. desgate.*, WIPO Case No. [D2012-0451](#)).

In addition, the Panel finds the fact that the Respondent intentionally divert Internet traffic to pay-per-click sites for financial gain shows clear bad-faith. See *Mpire Corporation v. Michael Frey*, WIPO Case No. [D2009-0258](#).

In light of these particular circumstances, the Panel concludes that the Complainant has succeeded in proving the requirement of paragraph 4(a)(iii) that the disputed domain name has been registered and used in bad faith by the Respondent.

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

/Ezgi Baklacı Gülkökar/

Ezgi Baklacı Gülkökar

Sole Panelist

Date: October 9, 2023