

ADMINISTRATIVE PANEL DECISION

Equifax Inc. v. DNS Admin, Domain Privacy LTD
Case No. D2023-4562

1. The Parties

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

Respondent is DNS Admin, Domain Privacy LTD, United States.

2. The Domain Name and Registrar

The disputed domain name <equifzx.com> is registered with Naugus Limited LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 28, 2023. On November 3, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 3, 2023, the Registrar transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 Respondent of the Complaint, and the proceedings commenced on December 5, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 25, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on January 3, 2024.

The Center appointed Scott R. Austin as the sole panelist in this matter on January 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 following facts appear from the Complaint and its attached Annexes, which have not been contested by Respondent, and which provide evidence sufficient to support:

Incorporated in Georgia, United States in 1913, Complainant is a leading global provider of information solutions and human resources business process outsourcing services for businesses, governments and consumers using the trademark EQUIFAX (the "EQUIFAX Mark"), including 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. Complainant's common stock is traded on the New York Stock Exchange (NYSE) under the symbol EFX and Complainant employs approximately 11,000 people worldwide.

Complainant asserts that it 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 registrations in the United States include the following:

United States Registration No. 1,027,544, EQUIFAX, registered on December 16, 1975, for use in connection with "insurance risk information reporting services concerning potential policy holders." in International Class 36, claiming a first use in commerce date March 4, 1975; and

United States Registration No. 1,644,585, EQUIFAX, registered on 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 International Class 42, claiming a first use in commerce date March 4, 1975.

Prior UDRP panels in decisions cited in the Complaint have also found Complainant's EQUIFAX Mark to be well-known in respect of a wide range of services provided by Complainant under the EQUIFAX Mark in the United States and throughout the world.

Complainant also shows it incorporates the EQUIFAX Mark into its official registered domain name <equifax.com>, created February 21, 1995, which official domain name Complainant uses to access its primary website (the "Official EQUIFAX Mark Website").

Respondent registered the disputed domain name on August 30, 2007, and it resolves to a pay-per-click ("PPC") monetized parking page with links for "Credit Monitoring", "Credit Report", and "Credit Score", which are services related to those provided by Complainant under its EQUIFAX Mark. Complainant also asserts that Respondent has configured MX records for the disputed domain name, enabling Respondent to send and receive email with addresses that use the disputed domain name.

5. Parties' Contentions

A. Complainant

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

Notably, Complainant contends, inter alia, that the Disputed Domain Name's use of the letter "z" in lieu of the letter "a" in the EQUIFAX Trademark (a common, obvious, or intentional misspelling of the trademark – especially since those letters are adjacent to each other on a U.S. keyboard), the trademark is still clearly recognizable within the Disputed Domain Name and therefore the disputed domain name is confusingly similar to Complainant's well-known EQUIFAX Mark in which Complainant has established trademark rights. Complainant further contends that Respondent has no rights or legitimate interests in the disputed domain name because Respondent has no commercial relationship with Complainant to support authorized use of Complainant's mark, that Complainant's use of the EQUIFAX Mark for 48 years makes it impossible that

Respondent is commonly known by the EQUIFAX Mark, and use by Respondent of the disputed domain name for its PPC parking page fails to create a bona fide offering of goods or services under the Policy, nor due to its monetized, commercial nature, could Respondent's use be construed as a bona fide or legitimate noncommercial or fair use. Finally, Complainant contends that the disputed domain name is registered and used in bad faith because Respondent registered a domain name confusingly similar to Complainant's EQUIFAX Mark, which is clearly famous and/or widely known, given that it is protected by at least 221 trademark registrations in at least 56 jurisdictions worldwide, the oldest of which was used and registered 48 years ago, and "[g]iven the fame of the Complainant's marks the Respondent must have known of the Complainant's rights at point of registration of the Domain Name". In support of bad faith use Complainant notably contends that Respondent's monetized PPC parking page providing Respondent a commercial benefit is bad faith use, whether or not Respondent was aware of the parking page, that Complainant's EQUIFAX Mark was first registered at least 32 years prior to the registration of the disputed domain name, and Complainant's evidence on the record that Respondent set up MX-records for the disputed domain name indicates that the disputed domain name may be being used for fraudulent email communications.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 15 of the Rules provides that the Panel is to decide the Complaint on the basis of the statements and documents submitted in accordance with the Policy, the Rules, and any rules and principles of law that it deems applicable.

The onus is on Complainant to make out its case and it is apparent from the terms of the Policy that Complainant must show that all three elements set out in paragraph 4(a) of the Policy have been established before any order can be made to cancel a domain name. As the proceedings are administrative, the standard of proof under the Policy is often expressed as the "balance of the probabilities" or "preponderance of the evidence" standard. Under this standard, an asserting party needs to establish that it is more likely than not that the claimed fact is true. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.2.

Thus, for Complainant to succeed it must prove within the meaning of paragraph 4(a) of the Policy and on the balance of probabilities that:

1. The disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
2. Respondent has no rights or legitimate interests in respect of the disputed domain name; and
3. The disputed domain name has been registered and is being used in bad faith.

The Panel finds that Complainant has met its burden in all three elements of the Policy and will deal with each of these elements in more detail below.

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 Complainant's trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

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. Sufficient evidence has been submitted in the form of electronic copies of valid and subsisting national and international trademark registration documents in the name of Complainant referenced in Section 4.

Complainant's EQUIFAX Mark is incorporated in its entirety except for Respondent's replacing the letter "a" with the letter "z" to configure the disputed domain name in a manner easily overlooked by unsuspecting consumers and essentially identical to Complainant's registered EQUIFAX Mark, followed only by the Top-Level Domain ("TLD") ".com". Prior UDRP panels have found the TLD, being viewed as a standard registration requirement, may typically be disregarded under the paragraph 4(a)(i) analysis. See [WIPO Overview 3.0](#), section 1.11.1; see also *L'Oréal v. Tina Smith*, WIPO Case No. [D2013-0820](#).

Notably, Complainant also contends that the disputed domain name must be considered confusingly similar to Complainant's Mark because the substituted "z" for "a" reconfiguration noted above is a purposeful misspelling of Complainant's EQUIFAX Mark (especially since those letters are adjacent to each other on a U.S. keyboard), and Complainant's Mark remains clearly recognizable within the disputed domain name. Prior panels have held that substitution of letters adjacent to each other on a keyboard among the examples of a deliberate misspelling of a trademark registered as a domain name, and such reconfiguration intended to confuse Internet users must be confusingly similar by design. See [WIPO Overview 3.0](#), section 1.9; See also *Equifax Inc. v. Yang Zhi Chao (杨智超)*, WIPO Case No. [D2023-0533](#); *Sanofi, Genzyme Corporation v. Domain Privacy*, WIPO Case No. [D2016-1193](#).

The Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is identical or confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, 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 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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Complainant contends that none of the circumstances provided in paragraph 4(c) of the Policy for demonstrating a respondent's rights to and legitimate interests in a domain name are present in this case. Respondent has not rebutted 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.

First, Complainant asserts that it has no commercial relationship with Respondent, who is not sponsored by or affiliated with Complainant in any way, nor has Complainant given Respondent authority or license to register or use Complainant's trademarks in any manner, including in domain names. Prior UDRP panels have held "in the absence of any license or permission from Complainant to use its trademark, no actual or contemplated bona fide or legitimate use of the Disputed Domain Name could reasonably be claimed". *Sportswear Company S.P.A. v. Tang Hong*, WIPO Case No. [D2014-1875](#).

Second, Complainant contends that by using the disputed domain name to redirect Internet users to a PPC or monetized parking page that includes links for services related to Complainant and/or the EQUIFAX Mark,

including “Credit Monitoring”, “Credit Report”, and “Credit Score”, Respondent has failed to create a bona fide offering of goods or services under the Policy – and, therefore, Respondent cannot demonstrate rights or legitimate interests under paragraph 4(c)(i) of the Policy. Prior UDRP panels have held that the operation of commercial link services like that used by Respondent, designed to lure Internet users and divert them to other commercial sites by the use of domain names identical or similar to a complainant’s trademark, do not confer a legitimate right to or interest in a domain name. See *MBI, Inc. v. Moniker Privacy Services/Nevis Domains LLC*, WIPO Case No. [D2006-0550](#); see also *Emmis Television Broadcasting, L.P., d/b/a KHON-TV v. Henry Chan*, WIPO Case No. [D2004-0366](#).

Next, Complainant contends Respondent is not commonly known by the disputed domain name, which evinces a lack of rights or legitimate interests under Policy paragraph 4(c)(ii). Complainant has shown in the Registrar’s registrant data submitted to the Center that Respondent, as registrant of the disputed domain name, identified as “DNS Admin, Domain Privacy LTD” is not commonly known by the disputed domain name because it clearly bears no resemblance to it, nor to the EQUIFAX Mark or Complainant’s official <equifax.com> domain name. Prior UDRP panels have held where no evidence, including the Whois record for the disputed domain name, suggests that Respondent is commonly known by the disputed domain name, then Respondent cannot be regarded as having acquired rights to or legitimate interests in the disputed domain name within the meaning of Policy paragraph 4(c)(ii). See *Moncler S.p.A. v. Bestinfo*, WIPO Case No. [D2004-1049](#).

Finally, Complainant contends that by using the disputed domain name in connection with a monetized parking page, Respondent’s actions are clearly commercial and, therefore, Respondent cannot establish rights or legitimate interests pursuant to paragraph 4(c)(iii) of the Policy. Prior UDRP panels have supported this limitation. See *Zions Bancorporation v. Domain Administrator, Fundacion Private Whois*, WIPO Case No. [D2014-0465](#).

Complainant also shows the MX records for the disputed domain name indicate that Respondent may also be using it for sending fraudulent emails. Panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. See *Valero Energy Corporation and Valero Marketing and Supply Company v. Valero Energy*, WIPO Case No. [D2017-0075](#).

Having reviewed the record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted 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 finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Finally, Complainant must prove, by a preponderance of the evidence, that the disputed domain name has been registered and used in bad faith under paragraph 4(a)(iii) of the Policy. See, e.g., *Hallmark Licensing, LLC v. EWebMall, Inc.*, WIPO Case No. [D2015-2202](#).

Paragraph 4(b) of the Policy sets out a non-exhaustive list of circumstances that point to bad faith conduct on the part of a respondent. The panel may, however, consider the totality of the circumstances when analyzing bad faith under Policy, paragraph 4(a)(iii) and may make a finding of bad faith that is not limited to the enumerated factors in Policy, paragraph 4(b). See *Do the Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#).

First, Complainant contends the EQUIFAX Mark is clearly famous and/or widely known, given that it is protected by at least 221 trademark registrations in at least 56 jurisdictions worldwide, the oldest of which

was used and registered 48 years ago. The Panel finds Complainant has shown in the annexes to its Complaint that Complainant and its EQUIFAX Mark is well known throughout the world and has an undisputable reputation in respect of the wide range of services provided by Complainant under the EQUIFAX Mark. Many UDRP panels have previously acknowledged Complainant's reputation and the EQUIFAX Mark to be well-known or famous worldwide, making it unlikely that Respondent was not aware of Complainant's rights when it registered the disputed domain name. See, e.g., , *Equifax Inc. v. Moe Khanm, Auto Finance Now*, WIPO Case No. [D2022-4433](#); see also *Volkswagen AG v. Fawzi Sood*, WIPO Case No. [D2015-1483](#)

Complainant further contends that there is no other explanation to register the disputed domain name other than to target Complainant. Prior UDRP panels have consistently found under the Policy that "[T]he mere registration of a domain name that is identical or 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. Given its EQUIFAX Mark is well-known worldwide, and the disputed domain name incorporates its confusingly similar term in its entirety, the Panel finds bad faith registration based on Respondent's likely knowledge of the EQUIFAX Mark given its widespread recognition, including in the United States where Respondent is located. See *Equifax Inc. v. Super Privacy Service LTD c/o Dynadot / Babacan Gunduz*, WIPO Case No. [D2021-3814](#).

In support of bad faith use, Complainant contends that Respondent's monetized PPC parking page providing Respondent a commercial benefit is bad faith use, whether or not Respondent was aware of the parking page. Prior UDRP panels have repeatedly held that using a domain name in connection with a monetized parking page under the circumstances present here, with links to third-party products and services intending to capitalize on the likelihood of confusion with Complainant's EQUIFAX Mark to generate PPC revenues for Respondent constitutes bad faith use. See *Columbia Pictures Industries, Inc. v. North West Enterprise, Inc.*, WIPO Case No. [D2006-0951](#); see also [WIPO Overview 3.0](#), section 3.5.

Finally Complainant contends that given the widespread recognition of Complainant's EQUIFAX Mark, including in the United States, where Respondent is located, and decades of use of the EQUIFAX Mark prior to Respondent's registration of the disputed domain name on August 30, 2007, Respondent's configuration of the disputed domain name MX records in a manner which creates the strong possibility that Respondent intended or intends to use the disputed domain name to send emails as part of a fraudulent phishing scheme also must be considered to support a finding of bad faith use. See *Altria Group, Inc. and Altria Group Distribution Company v. Emerson Terry*, WIPO Case No. [D2021-0045](#).

The Panel finds Complainant's arguments and evidence persuasive and has received no arguments or evidence from Respondent to the contrary. Considering all the circumstances, the Panel concludes that Respondent has registered and used the disputed domain name in bad faith and Complainant has satisfied paragraph 4(a)(iii) 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 <equifzx.com> be transferred to Complainant.

/Scott R. Austin/

Scott R. Austin

Sole Panelist

Date: January 29, 2024