

## **ADMINISTRATIVE PANEL DECISION**

Equifax Inc. v. Alex Tembel

Case No. D2022-0673

### **1. The Parties**

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

The Respondent is Alex Tembel, Canada.

### **2. The Domain Name and Registrar**

The disputed domain name <equifax.top> is registered with Super Registry Ltd (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 27, 2022. On February 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 3, 2022, 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 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 March 4, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 24, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 25, 2022.

The Center appointed Benjamin Fontaine as the sole panelist in this matter on April 1, 2022. 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 Equifax Inc., a global data, analytics, and technology company. Among other services, it provides to consumers and professionals credit reporting services. The Complainant offers its services since the 1970s, in the United States and in other countries, including Canada.

The Complainant relies on numerous trademark rights as a basis for its Complaint, registered in its own name or in the name of its subsidiaries, including the following:

- United States trademark registration No. 1027544 over the word mark EQUIFAX, registered on December 16, 1975;
- Canadian trademark registration No. TMA213693 over the word mark EQUIFAX, registered on May 7, 1976.

The Complainant also promotes and offers its services online, and is the owner in particular of the domain name <equifax.com>, registered on February 21, 1995.

The disputed domain name <equifax.top> was registered on September 1, 2019. It is used to redirect Internet users to the website of Bureau de Crédit (in English “Credit Bureau”), a Canadian entity which also acts in the field of credit analysis and counseling. The website of this entity is hosted at “www.bureaudecredit.ca”. It displays information primarily in French, and offers customers to analyze and improve their credit files, in particular on the basis of the data obtained from the Complainant. In his profile available in a popular social media, the Respondent defines himself as an expert in social credit and indicates that he works as a Director at Bureau de Crédit.

#### 5. Parties’ Contentions

##### A. Complainant

The Complainant’s detailed arguments and evidence can be summarized as follows:

On the first element of the Policy, the Complainant indicates that the disputed domain name is strictly identical with its trademarks EQUIFAX. The Top-Level Domain (“TLD”) “.top” should not be taken into account, as it is a standard registration requirement.

On the second element of the Policy, the Complainant claims that the Respondent has no rights or legitimate interests in the disputed domain name. There is no commercial relationship between the parties and the Respondent was not authorized in any way to register a domain name consisting in the Complainant’s trademark. What is more, the Complainant argues that “By using the disputed domain name to redirect Internet users to a website for a service that competes with the Complainant [...], the Respondent has failed to create a *bona fide* offering of goods or services under the Policy, and, therefore, the Respondent cannot demonstrate rights or legitimate interests under Paragraph 4(c)(i) of the Policy”.

On the third element of the Policy, the Complainant states that the disputed domain name was registered, and is being used, in bad faith. On the bad faith registration, the Complainant highlights that it holds trademark rights worldwide and has been in operation for several decades. Therefore it is implausible that the Respondent was unaware of its existence and rights. On the bad faith use, the redirection of the disputed domain name to a competing website creates a likelihood of confusion and disrupts the Complainant’s business. Finally, the Complainant highlights that the Respondent was already involved in at least one prior UDRP proceeding with the Center, in which he was found to have acted in bad faith (*La Poste Société anonyme v. Alex Tembel*, WIPO Case No. [D2015-1061](#)). The Complainant claims, therefore, that the Respondent is engaged in a pattern of registration of trademarks of third parties for the purpose of disrupting their businesses.

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy requires that the Complainant prove all of the following three elements in order to be successful in this proceeding:

- (i) the disputed domain name is 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 name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

### **A. Identical or Confusingly Similar**

The Complainant, under the first requirement of paragraph 4(a) of the Policy, needs to establish that the disputed domain name is identical or confusingly similar to a trademark or a service mark in which it has rights.

The Complainant has shown that it holds numerous rights over the trademark EQUIFAX.

The disputed domain name <equifax.top> is identical to the trademarks of the Complainant, as it consists solely in the word "equifax". The TLD ".top" plays no role in this assessment, as correctly outlined by the Complainant.

Therefore, the first element of the Policy is satisfied.

### **B. Rights or Legitimate Interests**

Under the Policy, a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name. Once such a *prima facie* case is made, the respondent carries the burden of production to demonstrate rights or legitimate interests in the disputed domain name. If the respondent fails to do so, the complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy (see [WIPO Overview 3.0](#), section 2.1).

The issue that arises here is whether the offer of services based on data provided by the Complainant legitimates the registration of the disputed domain name by the Respondent. Indeed, as outlined in the description of facts, the Respondent provides advice to customers for credit rating. He helps customers correcting, updating, and optimizing the data which appears in credit rating reports provided for by the Complainant under its trademark EQUIFAX.

In the Panel's view, the optimization by the Respondent of data provided by the Complainant does not legitimate in any way the registration and operation of the disputed domain name which is strictly identical to the trademark of the Complainant.

Instead, such behavior is likely to mislead consumers and does not amount to a *bona fide* offering of goods or services under the disputed domain name.

For this reason, and failing any specific allegation by the Respondent, the second element of the Policy is deemed to be satisfied.

### **C. Registered and Used in Bad Faith**

In order to prevail under the third element of paragraph 4(a) of the Policy, the Complainant must demonstrate that the disputed domain name was registered and is being used in bad faith.

Paragraph 4(b) of the Policy lists a number of circumstances, which, without limitation, are deemed to be evidence of the registration and use of a domain name in bad faith. These are:

- (i) circumstances indicating that [a respondent has] registered or acquired a disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name to the complainant or to a competitor of the complainant, for valuable consideration in excess of [the respondent's] documented out-of-pocket costs directly related to the disputed domain name; or
- (ii) [the respondent has] registered the disputed domain name in order to prevent the complainant from reflecting the complainant's trademark or service mark in a corresponding domain name, provided that [the respondent has] engaged in a pattern of such conduct; or
- (iii) [the respondent has] registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the disputed domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent's] website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [the respondent's] website or location or of a product or service on [the respondent's] website or location.

The Panel agrees with the claims of the Complainant: the Respondent registered, and uses, the disputed domain name in bad faith.

Bad faith registration can be inferred from the actual knowledge of the Complainant's activity and the Complainant's trademark EQUIFAX. The Respondent is a professional in the sector of social credit, and expressly offers services based on those of the Complainant.

Bad faith use results from the redirection of Internet users to the website of the Respondent. The Respondent creates an initial confusion, and takes undue advantage of the reputation of the Complainant's trademark EQUIFAX to promote its own services.

Also, the fact that the Respondent was already involved in cybersquatting, while not decisive here, confirms that the Complaint should succeed.

Accordingly, the third and final element of the Policy is deemed to be satisfied.

### **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.top> be transferred to the Complainant.

*/Benjamin Fontaine/*

**Benjamin Fontaine**

Sole Panelist

Date: April 12, 2022