

ADMINISTRATIVE PANEL DECISION

Equifax Inc. v. Domain Administrator, Fundacion Privacy Services LTD
Case No. D2022-0674

1. The Parties

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

Respondent is Domain Administrator, Fundacion Privacy Services LTD, Panama.

2. The Domain Name and Registrar

The disputed domain name <equifax.com> is registered with Media Elite Holdings Limited dba Register Matrix (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 6, 2022, 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 March 9, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 29, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on April 12, 2022.

The Center appointed Lorenz Ehrlar as the sole panelist in this matter on April 22, 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

Complainant is a listed company, traded on the New York Stock Exchange, which is active in the fields of information solutions and human resources business process outsourcing services for businesses, governments and consumers. It operates or has investments in 24 countries. In particular, 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.

Complainant owns more than 200 trademark registrations in more than 50 jurisdictions which consist of or contain the word "Equifax". Most importantly, one can mention the following word trademarks EQUIFAX:

- United States Trademark Reg. No. 1,027,544, registered on March 10, 1975, for services in Class 36 "insurance risk information reporting services concerning potential policy holders";
- United States Trademark Reg. No. 1,045,574, first used in 1975, registered on August 23, 1976, for services in Class 35 "conducting investigations and reporting on individuals and firms concerning credit, character and finances";
- United States Trademark Reg. No. 1,644,585, first used in commerce in 1975, registered on May 14, 1991, for services in Classes 35, 36, and 42, claiming, among others, "providing on-line access to computer databases containing information relating to applicants for insurance, credit, mortgage loans, and employment".

Complainant registered the domain name <equifax.com> in 1995 and uses it in connection with its primary website.

The disputed domain name <equifax.com> was registered on August 8, 2002, and redirects to a pay-per-click ("PPC") web page. One of the links contained on that page redirects visitors to a direct competitor of Complainant.

5. Parties' Contentions

A. Complainant

Complainant contends that the disputed domain name is confusingly similar to its EQUIFAX trademarks. It stresses the fact that the disputed domain name entirely comprises the aforementioned distinctive sign.

Furthermore, Complainant states that Respondent is not affiliated or related to it in any way, and that it did not authorize Respondent to use the trademark in question. Complainant also states that Respondent is not generally known by the disputed domain name and that it has not acquired any trademark rights in it.

Lastly, Complainant contends that Respondent uses the disputed domain name and the website to which it redirects in a way to create confusion with Complainant's trademark EQUIFAX, and with the purpose of generating revenue by running click-through links or to redirect users to sponsored websites, which in its view constitutes bad faith.

B. Respondent

The Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

According to paragraph 4(a) of the Policy, Complainant must prove that:

- (i) the disputed domain name registered by Respondent is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and

- (ii) Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

Complainant holds numerous trademarks for EQUIFAX. These trademarks are registered for various services, in more than 50 countries of the world. The trademarks put forward by Complainant are sufficient to ground the Complaint.

Under the UDRP, the identical or confusingly similar requirement under paragraph 4(a) of the Policy typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name. There is no requirement of similarity of goods and/or services (*e.g.*, *AIB-Vincotte Belgium ASBL*, *AIB-Vincotte USA Inc. / Corporation Texas v. Guillermo Lozada, Jr.*, WIPO Case No. D2005-0485).

The existence of a confusing similarity within the meaning of paragraph 4(a) of the Policy is not in doubt in the present case, given that the main element in the disputed domain name, *i.e.* “equifax”, entirely comprises Complainant’s distinctive trademark EQUIFAX. The incorporation of a trademark in its entirety is typically sufficient to establish that a domain name is identical or confusingly similar to a trademark (*RapidShare AG, Christian Schmid v. InvisibleRegistration.com, Domain Admin*, WIPO Case No. D2010-1059). Moreover, as Complainant rightly mentions, a domain name which consists of a common, obvious or intentional misspelling of a trademark is considered to be confusingly similar to the relevant mark (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“WIPO Overview 3.0”), section 1.9).

As far as the generic Top-Level Domain (“gTLD”) “.com” is concerned, this element has a technical function and therefore does not need to be taken into account when assessing the issue of identity or confusing similarity.

The Panel therefore finds that paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

Complainant contends that Respondent does not have any rights or legitimate interests in the disputed domain name. Complainant has shown that it owns the EQUIFAX trademark, and it has explicitly contested having granted Respondent any right to use its trademark.

In particular, Complainant contends (i) that Respondent has not been commonly known as “Equifax” and (ii) that it has not used, or demonstrably prepared to use, the disputed domain name in connection with a *bona fide* offering of goods or services. To the contrary, Complainant has shown that the disputed domain name is redirected to a website that contains sponsored links to third party websites, which – in the absence of any authorisation by Complainant – cannot be possibly viewed as a *bona fide* use. Actually, it seems very likely that Respondent receives commercial revenue from the display of links to third party offerings. For this reason, there is no *bona fide* offering of goods or services according to paragraph 4(c)(i) of the Policy (*Baccarat SA v. Speedeenames.com / Troy Rushton*, WIPO Case No. D2010-0953).

Therefore, Complainant has made a *prima facie* showing that Respondent has no rights or legitimate interests in the disputed domain name. In line with previous UDRP panel decisions, this means that the burden of production shifts to Respondent (*e.g.*, *Belupo d.d. v. WACHEM d.o.o.*, WIPO Case No. D2004-0110; *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. D2003-0455).

Respondent having failed to respond to the Complaint, this Panel concludes that Respondent does not have any rights or legitimate interests with respect to the disputed domain name.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy provides that Complainant must, in addition to the matters set out above, demonstrate that the disputed domain names has been registered and is being used in bad faith.

The undisputed *prima facie* evidence establishes that Respondent is not affiliated with Complainant and has no license or other authorisation to use Complainant's trademark.

Respondent registered (or acquired) the disputed domain name many years after Complainant's trademark was in use and became known. The Panel finds that Respondent should have known about Complainant's trademark and business when registering or acquiring the disputed domain name. It is highly improbable to the Panel that given the obvious notoriety of the EQUIFAX trademark, Respondent was unaware of it at the time it registered or otherwise became the holder of the disputed domain name. Complainant rightly points out that, due to the indisputable notoriety of the EQUIFAX trademark, Respondent cannot have ignored the trademark when registering the disputed domain name.

This Panel further considers that the disputed domain name for itself is a strong indication that the Respondent was aware of Complainant's trademark EQUIFAX, as it seems more than unlikely that Respondent would have registered – randomly – the disputed domain name (*cf. Motul v. Contact Privacy Inc. Customer 0138693539 / Konstantin Speranskii*, WIPO Case No. D2016-2632).

Furthermore, based on the record, the Panel finds that the use to which the disputed domain name has been put to, evidences Respondent's bad faith. Indeed, it results from the Panel's factual findings that Respondent is using the disputed domain name to display links to third party websites, and that it thereby intends to generate commercial revenue. The Panel therefore finds that by using a domain name that is confusingly similar with Complainant's trademark to redirect Internet users to a competitor's site Respondent creates a likelihood of confusion, constituting bad faith pursuant to paragraph 4(b)(iv) of the Policy.

The Panel thus finds that Respondent registered and is using the disputed domain name to intentionally attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website (paragraph 4(b)(iv) of the Policy).

The Panel therefore finds that paragraph 4(a)(iii) of the Policy is 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.com>, be transferred to Complainant.

/Lorenz Ehrler/

Lorenz Ehrler

Sole Panelist

Date: April 26, 2022