

ADMINISTRATIVE PANEL DECISION

Equifax Inc. v. Privacy Protection / Domain / Administrator
Case No. D2022-0781

1. The Parties

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

The Respondent is Privacy Protection, U.S. / Domain / Administrator, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <myequifaxmembership.com> is registered with Sav.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 5, 2022. On March 7, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 9, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on March 9, 2022, 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 March 10, 2022.

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 March 11, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 31, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 1, 2022.

The Center appointed Federica Togo as the sole panelist in this matter on April 4, 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 the registered owner of several trademarks worldwide consisting of and/or containing the term EQUIFAX, e.g. U.S. Registration No. 1027544 EQUIFAX, registered on December 16, 1975, for services in class 36 for “Insurance risk information reporting services concerning potential policy holders”; U.S. Registration No. 1644585 EQUIFAX, registered on May 14, 1991, for services in classes 35, 36, and 42 and amongst others for “providing on-line access to computer databases containing information relating to applicants for insurance, credit, mortgage loans, and employment” in class 42.

In addition, the disputed domain name was registered on February 15, 2020. Furthermore, the undisputed evidence provided by the Complainant proves that the disputed domain name resolved to a parking page displaying Pay-Per-Click (“PPC”) links which are clearly related to the sector in which the Complainant operates.

5. Parties’ Contentions

A. Complainant

It results from the Complainant’s undisputed allegations that it is a leading global provider of information solutions and human resources business process outsourcing services for businesses, governments and consumers. Headquartered in Atlanta (USA), it operates or has investments in 24 countries in North America, Central and South America, Europe, and the Asia Pacific region. It is a member of Standard & Poor’s (S&P) 500 Index, and its common stock is traded on the New York Stock Exchange. It employs approximately 11,000 people worldwide. Among its many services, it 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.

In addition, the Complainant owns the domain name <equifax.com> (created on February 21, 1995) at which it operates its primary website.

The Complainant contends that its trademark EQUIFAX is clearly famous and widely known.

The Complainant further contends that the disputed domain name is identical or confusingly similar to its trademark, since the disputed domain name incorporates the entirety of EQUIFAX trademark. Moreover, the addition of the terms “my” and “membership” would not prevent a finding of confusing similarity, because the relevant trademark is recognizable within the disputed domain name.

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name. According to the Complainant, it has never assigned, granted, licensed, sold, transferred or in any way authorized the Respondent to register or use the EQUIFAX trademark in any manner. In addition, by using the disputed domain name in connection with a PPC page that includes links for services related to the EQUIFAX trademark, including “Get My Free Credit Report” and “Credit Alert Services”, the Respondent has failed to create a *bona fide* offering of goods or services under the Policy. Furthermore, 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. By using the disputed domain name in connection with a monetized parking page, the Respondent’s actions are clearly commercial and, therefore, the Respondent cannot establish rights or legitimate interests pursuant to paragraph 4(c)(iii) of the Policy.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. According to the Complainant’s undisputed allegations, due to the well-known character of the EQUIFAX trademark, the Respondent must have been aware of the Complainant and its trademark when registering the disputed domain name. Additionally, the fact that disputed domain name resolves to a parking page displaying PPC links that are related to the services related to the EQUIFAX trademark,

including “Get My Free Credit Report” and “Credit Alert Services” is also evidence of bad faith.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs this Panel to “decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”. Paragraph 4(a) of the Policy requires a complainant to prove each of the following three elements in order to obtain an order that the disputed domain name be transferred or cancelled:

- (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 has been registered and is being used in bad faith.

The Panel will therefore proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied.

A. Identical or Confusingly Similar

Pursuant to paragraph 4(a)(i) of the Policy, the Complainant must, firstly, establish rights in a trademark or service mark and, secondly, establish that the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights.

It results from the evidence provided, that the Complainant is the registered owner of several trademarks worldwide consisting of and/or containing the term EQUIFAX. Reference is made in particular to U.S. Registration No. 1027544 EQUIFAX, registered on December 16, 1975, for services in class 36 for “Insurance risk information reporting services concerning potential policy holders”; U.S. Registration No. 1644585 EQUIFAX, registered on May 14, 1991, for services in classes 35, 36, and 42 and amongst others for “providing on-line access to computer databases containing information relating to applicants for insurance, credit, mortgage loans, and employment” in class 42.

Prior UDRP panels have found that a disputed domain name is confusingly similar to a complainant’s trademark where the disputed domain name incorporates the complainant’s trademark in its entirety (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) at section 1.7).

This Panel shares this view and notes that the Complainant’s registered trademark EQUIFAX is fully included in the disputed domain name, preceded by the term “my”, and followed by the term “membership”. Furthermore, it is the view of this Panel that the addition of these terms in the disputed domain name cannot prevent a finding of confusing similarity between the disputed domain name and the Complainant’s trademark since the Complainant’s trademark is clearly recognizable in the disputed domain name (see [WIPO Overview 3.0](#) at section 1.8).

Finally, the generic Top-Level-Domain (“gTLD”) “.com” of the disputed domain name may be disregarded under the first element confusing similarity test (see [WIPO Overview 3.0](#) at section 1.11.1).

In the light of the above, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(a)(ii) of the Policy, the Complainant must further establish that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Paragraph 4(c) of the Policy contains a non-exhaustive list of circumstances which, if found by the Panel to be proved, shall demonstrate the Respondent's rights or legitimate interests to the disputed domain name. In the Panel's view, based on the undisputed allegations stated above, the Complainant has made a *prima facie* case that none of these circumstances are found in the case at hand and, therefore, that the Respondent lacks rights or legitimate interests in the disputed domain name.

According to the Complaint, which has remained unchallenged, the Complainant has no relationship in any way with the Respondent and did, in particular, not authorize the Respondent's use of the trademark EQUIFAX or the registration of the disputed domain name.

Furthermore, the Panel notes that there is no evidence showing that the Respondent might have been commonly known by the disputed domain name in the sense of paragraph 4(c)(ii) of the Policy.

In addition, it results from the undisputed evidence before the Panel that the disputed domain name resolves to a parking website comprising PPC links that compete with or capitalize on the reputation and goodwill of the Complainant's trademark. Prior UDRP panels have found that the use of a domain name to host a parked page comprising PPC links does not represent *bona fide* offering of goods or services, where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users (see [WIPO Overview 3.0](#) at section 2.9, with further references). This Panel shares this view and notes that the Complainant's trademark EQUIFAX is well-known (see, e.g., *Equifax Inc. v. Domain Controller, Yoyo Email / Yoyo.Email Ltd.*, WIPO Case No. [D2015-0880](#)). Therefore, such use can neither be considered as *bona fide* offering of goods or services nor a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

It is acknowledged that once the Panel finds a *prima facie* case is made by a complainant, the burden of production under the second element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name. Since the Respondent in the case at hand failed to come forward with any allegations or evidence, this Panel finds, in the circumstances of this case, that the Respondent has no rights or legitimate interests in the disputed domain names.

The Complainant has therefore satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

According to paragraph 4(a)(iii) of the Policy, the Complainant must, lastly, establish that the disputed domain name has been registered and is being used in bad faith. The Policy indicates that certain circumstances specified in its paragraph 4(b) may, "in particular but without limitation", be evidence of the disputed domain name's registration and use in bad faith. One of these circumstances is that the Respondent by using the disputed domain name, has intentionally attempted to attract, for commercial gain, Internet users to its 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 its website or location or of a product or service on its website or location (paragraph 4(b)(iv) of the Policy).

It is the view of this Panel that these circumstances are met in the case at hand. The Complainant's trademarks have existed for decades and have gained a reputation. Therefore, this Panel has no doubt that the Respondent positively knew or should have known that the disputed domain name consisted of the Complainant's EQUIFAX trademarks when he registered the disputed domain name. Registration of the disputed domain name by the Respondent in awareness of the reputed EQUIFAX mark and in the absence

of rights or legitimate interests in this case amounts to registration in bad faith (see, e.g., *Sanofi v. Whois Guard Protected, Whois Guard, Inc. / Todd Peter*, WIPO Case No. [D2020-2060](#); *Virgin Enterprises Limited v. Domains By Proxy LLC, Domainsbyproxy.com / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-1923](#); *“Dr. Martens” International Trading GmbH and “Dr. Maertens” Marketing GmbH v. Petra Wirth*, WIPO Case No. [D2018-0246](#); *KOC Holding A.S. v. VistaPrint Technologies Ltd*, WIPO Case No. [D2015-1910](#)).

The Complainant also proved that the disputed domain name resolved to a parking website comprising PPC links that compete with or capitalize on the reputation and goodwill of the Complainant’s trademark, so that the Panel is satisfied that the disputed domain name, incorporating in its entirety the Complainant’s trademark, is being used to intentionally attempt to attract, for commercial gain, Internet users to the Respondent’s websites or other online locations, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation or endorsement of the Respondent’s websites or locations, or of a product or service on the Respondent’s websites or locations.

Finally, the further circumstances surrounding the disputed domain name’s registration and use confirm the findings that the Respondent has registered and is using the disputed domain name in bad faith. In that regard, the Respondent originally used a privacy service to conceal its identity and the Respondent did not provide any response with a conceivable explanation of its behavior.

In the light of the above, the Panel finds that the disputed domain name has been registered and is being used in bad faith pursuant to 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 <myequifaxmembership.com>, be transferred to the Complainant.

/Federica Togo/

Federica Togo

Sole Panelist

Date: April 18, 2022