

## **ADMINISTRATIVE PANEL DECISION**

Equifax Inc. v. Domain Administrator, See PrivacyGuardian.org / GRUPO SA Ltd Co, Grupo S.A. Ltd. Co.  
Case No. D2022-2447

### **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, See PrivacyGuardian.org, United States / GRUPO SA Ltd Co, Grupo S.A. Ltd. Co., United States.

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

The disputed domain name <equifax.com> (“Domain Name”) is registered with NameSilo, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 6, 2022. On July 6, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On July 6, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to Complainant on July 7, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on July 7, 2022.

The Center verified that the Complaint together with the amended 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 July 11, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 31, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on August 2, 2022.

The Center appointed John C. McElwaine as the sole panelist in this matter on August 5, 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 United States-based company providing information solutions and human resources business process outsourcing services for businesses, governments, and consumers. Complainant, via its various predecessors in interest, was founded in 1899 and was originally incorporated under the laws of the State of Georgia (United States) in 1913. Among its many services, 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.

Headquartered in Atlanta, Georgia, Complainant operates or has investments in 24 countries throughout North America, Central America, South America, Europe, and the Asia-Pacific regions. Complainant employs approximately 11,000 individuals worldwide.

Complainant owns at least 221 trademark registrations in at least 56 jurisdictions globally for marks comprised of or that contain "equifax" (the "EQUIFAX Mark"). Specifically, Complainant claims ownership of United States Reg. Nos. 1,027,544, registered on December 16, 1975; 1,045,574, registered on August 3, 1976; and 1,644,585, registered on May 14, 1991 for the EQUIFAX trademark. Complainant's alleged date of first use of the EQUIFAX Mark is 1975.

In addition to the aforementioned trademark registrations, since February 21, 1995, Complainant has owned the <equifax.com> domain name, which Complainant has used in connection with hosting Complainant's primary website.

The Domain Name was registered by Respondent on March 18, 2005. The Domain Name has been used to resolve to a website featuring pay-per-click advertisements for third-party products and services related to Complainant's products and services, namely, Complainant's credit reporting and related services (the "Website").

#### **5. Parties' Contentions**

##### **A. Complainant**

Complainant contends that the Domain Name should be transferred to it because each of the three elements required in paragraph 4(a) of the Policy has been established.

With respect to the first element of the Policy, Complainant alleges to own a trademark for the EQUIFAX Mark dating back at least as early as 1975 when Complainant allegedly first began using and registered the mark in the United States. Complainant further contends that the EQUIFAX Mark is internationally well known as evidenced by, among other things, previous WIPO UDRP decisions finding Complainant's EQUIFAX Mark to be well known. Lastly, Complaint points out that the Domain Name is wholly comprised of the EQUIFAX Mark with the only difference being the misspelling of Equifax with the addition of a letter "q" after the letter "f" in "equifax".

With respect to the second element of the Policy, Complainant alleges that Respondent does not have any rights or legitimate interests in the Domain Name because Complainant has never assigned, granted, licensed, sold, transferred or in any way authorized Respondent to register or use the EQUIFAX Mark in any manner and there is no evidence that Respondent is commonly known by the name Equifax. Complainant further asserts that Respondent is using the Domain Name to resolve to a website that uses the EQUIFAX

Mark in connection with the Website which features sponsored pay-per-click advertisements and that the sponsored advertisements are related to third-party products and services that are related to and competitive with Complainant's own products and services associated with the EQUIFAX Mark. Lastly, Complainant asserts that such use of a confusingly similar domain name to attract traffic to the Website is not a *bona fide* offering of goods or services nor is it a legitimate noncommercial or fair use.

With respect to the third element of the Policy, Complainant alleges that Respondent registered and is using the Domain Name primarily to profit from and exploit Complainant's globally well-known EQUIFAX Mark. In particular, Complainant avers that Respondent is using the Domain Name to drive Internet users to the Website hosted at the Domain Name, which features pay-per-click advertisements for third-party products and services that are related to and competitive with Complainant's own products and services associated with the EQUIFAX Mar, for which Respondent presumably receives click-through fees, and such use constitutes bad faith registration and use of the disputed domain name under the Policy 4(b)(iv). In addition, Complainant alleges that Respondent knowingly registered the Domain Name containing a near exact reproduction of Complainant's globally well-known EQUIFAX Mark with the addition of an additional letter "q" to capitalize on consumer recognition of the EQUIFAX Mark and that such "typosquatting" is evidence of bad faith under the Policy 4(a)(iii). Lastly, Complainant claims that Respondent has engaged in a pattern of conduct of registering domain names corresponding to well-known trademarks, as evidenced by the prior existing UDRP decisions adverse to Respondent and that this pattern of past conduct supports an inference of Respondent's bad faith as it pertains to the registration and use of the Domain Name.

## **B. Respondent**

Respondent did not reply to Complainant's contentions.

## **6. Discussion and Findings**

Even though Respondent has defaulted, paragraph 4 of the Policy requires that, in order to succeed in this UDRP proceeding, Complainant must still prove its assertions with evidence demonstrating:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

Because of Respondent's default, the Panel may accept as true the reasonable factual allegations stated within the Complaint and may draw appropriate inferences therefrom. See *St. Tropez Acquisition Co. Limited v. AnonymousSpeech LLC and Global House Inc.*, WIPO Case No. [D2009-1779](#); *Bjorn Kasso Andersen v. Direction International*, WIPO Case No. [D2007-0605](#); see also paragraph 5(f) of the Rules ("If a Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the complaint"). Having considered the Complaint, the Policy, the Rules, the Supplemental Rules and applicable principles of law, the Panel's findings on each of the above cited elements are as follows.

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

Paragraph 4(a)(i) of the Policy requires Complainant show that the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights. Ownership of a trademark registration is generally sufficient evidence that a complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.2. On this point, Complainant has provided evidence that it is the owner of the EQUIFAX Mark and has provided evidence of ownership of registrations for the trademark

worldwide, including, United States Reg. No. 1,027,544 issued December 16, 1975, United States Reg. No. 1,045,574 issued August 3, 1976, and United States Reg. No. 1,644,585 issued May 14, 1991. The Panel finds that Complainant owns valid trademark rights in the EQUIFAX Mark and said rights predate the registration of the Domain Name.

As discussed in the [WIPO Overview 3.0](#), section 1.9, the consensus view is that “a domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element”. Similarly, previous UDRP panels have consistently held that “a mere addition or a minor misspelling of Complainant’s trademark does not create a new or different mark in which Respondent has legitimate rights”. *Express Scripts, Inc. v. Whois Privacy Protection Service, Inc. / Domaindeals, Domain Administrator*, WIPO Case No. [D2008-1302](#) (“Such insignificant modifications to trademarks is commonly referred to as ‘typosquatting’ or ‘typo-piracy,’ as such conduct seeks to wrongfully take advantage of errors by users in typing domain names into their web browser’s location bar.”) The spelling errors used in typosquatting have been found to produce domain names that are confusingly similar to the marks which they mimic. See, e.g., *Yahoo! Inc. and GeoCities v. Data Art Corp. et al.*, WIPO Case No. [D2000-0587](#). Here, the Domain Name is virtually identical to Complainant’s EQUIFAX Mark differing only by the addition of the letter “q” after the letter “f” in the EQUIFAX Mark.

It is well established, and the Panel agrees, that typosquatting domain names are intended to be confusing and can constitute confusing similarity. See, *First American Financial Corporation v. VistaPrint Technologies Ltd*, WIPO Case No. [DCO2016-0008](#); *National Association of Professional Baseball Leagues, Inc, d/b/a Minor League Baseball v. John Zuccarini*, WIPO Case No. [D2002-1011](#)). Accordingly, the Panel finds that Complainant has met its burden of showing that the Domain Name is confusingly similar to the EQUIFAX Mark in which Complainant has valid subsisting trademark rights.

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

Under the Policy, paragraph 4(a)(ii), Complainant has the burden of establishing that Respondent has no rights or legitimate interests in the Domain Name. Complainant needs only make a *prima facie* showing on this element, at which point the burden of production shifts to Respondent to present evidence that it has rights or legitimate interests in the Domain Name. If Respondent has failed to do so, then Complainant is deemed to have satisfied its burden under paragraph 4(a)(ii) of the Policy. See *Vicar Operating, Inc. v. Domains by Proxy, Inc. / Eklin Bot Systems, Inc.*, WIPO Case No. [D2010-1141](#); see also *Nicole Kidman v. John Zuccarini, d/b/a Cupcake Party*, WIPO Case No. [D2000-1415](#); *Inter-Continental Hotels Corporation v. Khaled Ali Soussi*, WIPO Case No. [D2000-0252](#).

The Policy, paragraph 4(c), provides a non-exhaustive list of circumstances in which a respondent could demonstrate rights or legitimate interests in a contested domain name:

- “(i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or
- (iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.”

With respect to Complainant’s contention that Respondent is not commonly known by the Domain Name, the Panel notes that the Whois information lists Respondent as “Grupo S.A. Ltd. Co.” and the Panel therefore finds, based on the record and the lack of evidence otherwise, that Respondent is not commonly known by the Domain Name. See *Moncler S.p.A. v. Bestinfo*, WIPO Case No. [D2004-1049](#) (“the Panel notes that the Respondent’s name is “Bestinfo” and that it can therefore not be “commonly known by the Domain Name.”)

Complainant's has further alleged that it has never licensed or otherwise provided authorization for Respondent to use the EQUIFAX Mark and Respondent is not an agent of Complainant. Although Respondent has been properly notified of the Complaint by the Center, it has failed to submit any response on this point. The silence of a respondent may support a finding that it has no rights or legitimate interests in respect of the domain name. See *Alcoholics Anonymous World Services, Inc., v. Lauren Raymond*, WIPO Case No. [D2000-0007](#); *Ronson Plc v. Unimetal Sanayi ve Tic.A.S.*, WIPO Case No. [D2000-0011](#). Additionally, previous UDRP panels have found that when respondents have not availed themselves of their rights to respond to complainants, it can be a further inference in appropriate circumstances that respondents have no rights nor legitimate interests in the domain name at issue. See *AREVA v. St. James Robyn Limoges*, WIPO Case No. [D2010-1017](#); *Nordstrom, Inc. and NIHC, Inc. v. Inkyu Kim*, WIPO Case No. [D2003-0269](#). The Panel finds that there is no evidence Respondent has never been licensed or otherwise authorized to use the EQUIFAX Mark that would justify registration of the Domain Name and that Respondent is not an agent of Complainant.

Furthermore, the Panel finds that Respondent is not making *bona fide* use of the Domain Name under paragraph 4(c), as the Domain Name links to what appears to be a "parked" page" featuring pay-per-click advertisements for third-party products and services. This Panel agrees with the viewpoint that to register domain names and park them to earn rental revenue by allowing a third party to use the domain name is not by itself to be considered a *bona fide* use of the domain name in connection with the offering of goods or services by the registrant of that domain name. *Trade Me Limited v. Vertical Axis Inc.*, WIPO Case No. [D2009-0093](#). However, the Panel recognizes that parking webpages may be permissible in some circumstances, as discussed in section 2.9 of [WIPO Overview 3.0](#). However, none of those factors are present here. There is no evidence that the Domain Name consists of dictionary or common words or phrases that support the pay-per-click links genuinely related to the generic meaning of the domain name at issue as the EQUIFAX Mark is a highly distinctive and apparently coined term. Instead, the Domain Name appears to have been registered with the intent that confused Internet users searching for Complainant will be directed to Respondent's parked webpage for commercial gain. Such activity does not provide a legitimate interest in that domain name under the Policy. See *M.F.H. Fejlesztő Korlátolt Felelősségű v. Satoshi Shimoshita*, WIPO Case No. [D2014-1726](#).

Lastly, Respondent's use of the Domain Name is not "noncommercial or fair use" under paragraph 4(c)(iii) of the Policy, given that Respondent is seeking commercial gain from its use of the Domain Name by establishing a parked page with advertisements that compete with Complainant's products and services. Therefore, the Domain Name is used for commercial purposes and paragraph 4(c)(iii) is not applicable. See *Overstock.com, Inc. v. Metro Media*, WIPO Case No. [DME2009-0001](#) ("respondent's use of the disputed domain name to establish a parking page was "plainly not 'noncommercial'").

Based on the foregoing, Complainant has made a *prima facie* showing of Respondent's lack of any rights or legitimate interests and Respondent has failed to come forward to rebut that showing. As provided for by paragraph 14 of the Rules, the Panel may draw such inference from Respondent's default as it considers appropriate. The Panel finds that Respondent does not have rights or legitimate interests in the Domain Name and that Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

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

According to paragraph 4(a)(iii) of the Policy, Complainant must show that Respondent registered and is using the Domain Name in bad faith. A non-exhaustive list of factors constituting bad faith registration and use is set out in paragraph 4(b) of the Policy.

Complainant contends that the registration by Respondent of a domain name, which constitutes a typosquatting variant of Complainant's well-known and globally registered EQUIFAX Mark establishes that Respondent was aware of the existence of, and intentionally targeted in bad faith, Complainant's EQUIFAX Mark. Bad faith may be found where a domain name is so obviously connected with a well-known trademark that said use of the domain name by someone with no connection to the trademark suggests opportunistic bad faith. See *LEGO Juris A/S v. Reiner Stotte*, WIPO Case No. [D2010-0494](#); *Sanofi-Aventis v. Nevis*

*Domains, LLC*, WIPO Case No. [D2006-0303](#). Furthermore, it is well settled that the practice of typosquatting constitutes obvious evidence of the bad faith registration of a domain name. See, *Admiral Group Plc and EUI Limited v. Cimpress Schweiz, Cimpress Schweiz GmbH*, WIPO Case No. [DCO2017-0043](#) (citing *Longs Drug Stores California, Inc. v. Shep Dog*, WIPO Case No. [D2004-1069](#) (finding typosquatting to be evidence of bad faith domain name registration); *Lexar Media, Inc. v. Michael Huang*, WIPO Case No. [D2004-1039](#) (“Typosquatting has been held under the Policy to be evidence of bad faith registration of a domain name”); *Wal-Mart Stores, Inc. v. Longo*, WIPO Case No. [D2004-0816](#) (“[typosquatting] is presumptive of registration in bad faith”). Typosquatting can be defined as “inherently parasitic and of itself evidence of bad faith”. *Insurance Company v. Dyk Dylina/Privacy--Protect.org*, WIPO Case No. [D2011-0304](#). Here, the typosquatting is obvious. The Domain Name consist of solely of the entirety of the EQUIFAX Mark with an additional letter “q” added after the letter “f” in “Equifax”.

Furthermore, bad faith registration can be found where a respondent “knew or should have known” of a complainant’s trademark rights and nevertheless registered a domain name in which it had no right or legitimate interest. See *Accor v. Kristen Hoerl*, WIPO Case No. [D2007-1722](#). As detailed above, Respondent registered the Domain Name, which is virtually identical to the well-known EQUIFAX Mark but for an obvious and intentional misspelling. Based on Complainant’s submissions, which were not rebutted by Respondent, on the record there is no explanation or legitimate interests to justify Respondent’s choice to register the Domain Name. With no response from Respondent, this claim is undisputed, and the Panel can infer bad faith registration.

With respect to bad faith use of the Domain Name, paragraph 4(b)(iv) of the Policy provides that bad faith may be shown if “by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location.” As discussed herein, Respondent registered the Domain Name, which is virtually identical to Complainant’s EQUIFAX Mark, and used the Domain Name to resolve to a landing page featuring pay-per-click advertisements for third-party products and services related to and competitive with Complainant’s own products and services. Such use of a domain name has been previously found to establish a respondent’s use of the domain name in bad faith. See *Identigene, Inc. v. Genetest Labs.*, WIPO Case No. [D2000-1100](#) (finding bad faith where the respondent’s use of the domain name at issue to resolve to a website where similar services are offered to Internet users is likely to confuse the user into believing that the complainant is the source of or is sponsoring the services offered at the site); *MathForum.com, LLC v. Weiguang Huang*, WIPO Case No. [D2000-0743](#) (finding bad faith under paragraph 4(b)(iv) of the Policy where the respondent registered a domain name confusingly similar to the complainant’s mark and the domain name was used to host a commercial website that offered similar services offered by the complainant under its mark).

Lastly, Complainant additionally contends that an inference of Respondent’s bad faith registration and use of the Domain Name can be drawn from the allegation that Respondent is a serial cybersquatter as evidenced by the fact that there are at least three prior existing adverse UDRP decisions that have been issued against Respondent. See *Autodesk, Inc. v. Web Admin, Ebills Online Services*, WIPO Case No. [D2015-1358](#); *Ikea Systems B.V. v. Web Admin, Ebills Online Services*, WIPO Case No. [D2011-1948](#). Based on the evidence of record, in particular in light of Respondent’s failure to respond to the Complaint, the Panel finds that Respondent has in fact engaged in a pattern of abusive domain name registration and this pattern is further evidence of Respondent’s bad faith intentions with respect to the registration and use of the Domain Name.

For these reasons, the Panel holds that Complainant has met its burden of showing that Respondent registered and is using the Domain Name in bad faith under paragraph 4(a)(ii) 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 Domain Name <equifax.com> be transferred to Complainant.

*/John C McElwaine/*

**John C McElwaine**

Sole Panelist

Date: August 18, 2022