

ADMINISTRATIVE PANEL DECISION

Equifax Inc. v. Contact Privacy Inc. Customer 7151571251 / David Mayor
Case No. D2022-2627

1. The Parties

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

The Respondent is Contact Privacy Inc. Customer 7151571251, Canada / David Mayor, United States.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 19, 2022. On July 19, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On July 19, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name that differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on July 25, 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 July 25, 2022. The Complainant submitted a supplemental filing on August 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 this proceeding commenced on July 27, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 16, 2022. The Respondent did not submit a response. Accordingly, the Center notified the Respondent’s default on August 18, 2022.

The Center appointed A. Justin Ourso III as the sole panelist in this matter on August 23, 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, a publicly held American corporation, is a leading global provider of credit and credit report services, and other information and human resources services, to consumers, businesses, and governments, and has operations or investments in 24 countries in North America, Central and South America, Europe, and the Asia Pacific region, with 11,000 employees worldwide.

The Complainant owns a United States trademark registration issued on December 16, 1975, No. 1,027,544, for its EQUIFAX mark in Class 36 for insurance risk information reporting services; another United States registration for this mark issued on August 3, 1976, No. 1,045,574, in Class 35 for credit reporting services; and another United States registration issued on May 14, 1991, No. 1,644,585, in Classes 35, 36, and 42 for many other similar, related, and unrelated services. The Complainant also owns hundreds of registrations worldwide for its EQUIFAX mark and other marks in which EQUIFAX is a component of the mark.

The Complainant registered a domain name <equifax.com> on February 21, 1995, which it uses in connection with its primary web site. The Respondent registered the Domain Name <equifaxjobs.com> on July 10, 2022, over 45 years after the Complainant registered its EQUIFAX mark and over 25 years after the Complainant registered its domain name.

The Domain Name does not resolve to a functioning web site, but mail exchanger (“MX”) records for the Domain Name have been configured and are active. An MX record is a resource in the Domain Name System (“DNS”) that specifies the mail server(s) responsible for receiving email messages for a domain name. An active MX record enables the owner of a domain name to use it for email and email addresses. It is not necessary to assign MX records to a domain name if the registrant does not intend to use the domain name for sending and receiving emails.

5. Parties’ Contentions

A. Complainant

In addition to facts set forth in the Factual Background in Part 4 above, the Complainant contends the following. Regarding the element of confusing similarity with a mark in which it has rights, the Complainant contends that it owns numerous registrations worldwide for the mark EQUIFAX; numerous decisions (including at least nine in proceedings conducted by the Center) by UDRP Providers under the Rules have found that it owns trademark rights in the EQUIFAX mark; the Domain Name incorporates the mark, which is recognizable within the Domain Name, notwithstanding the inclusion of the word “jobs”; and the Domain Name is confusingly similar to its mark EQUIFAX.

Regarding the element of rights or legitimate interests in the Domain Name, the Complainant contends that it has never transferred or licensed its trademark to the Respondent, or authorized the Respondent to use its trademark; the Respondent is using the Domain Name in connection with phishing activities of which the Complainant has received reports and which is supported by the MX records for the Domain Name, which have been configured to allow the Respondent to send and receive email using the Domain Name; the Respondent has never been commonly known by or acquired any trademark rights in the Domain Name; by failing to use the Domain Name in connection with an active web site, and by using it in connection with phishing activities, the Respondent is not making a legitimate noncommercial or fair use of the Domain Name; and that, accordingly, the Respondent has no rights or legitimate interests in the Domain Name.

Regarding the element of bad faith registration and use of the Domain Name, the Complainant contends that its trademark is famous or widely known, which can create a presumption of bad faith; it is implausible that the Respondent was unaware of the Complainant, given the fame of its mark and, indeed, likely that the Respondent knew of the Complainant's mark when it registered the Domain Name; the configuration of MX records for email communications is evidence of bad faith; in the circumstances of this case, including that the EQUIFAX trademark is distinctive and has a strong reputation, the Respondent concealed its identity by using a privacy service, and that it is not possible to identify any good faith use for the Domain Name, the passive holding of the Domain Name demonstrates registration and use of the Domain Name in bad faith.

In a Supplemental Filing, the Complainant reiterates its allegations regarding phishing activity and offers alleged evidence of this activity on the second and third required elements of a claim.

The Complainant requested transfer of the Domain Name.

B. Respondent

The Respondent did not submit a response to the Complaint.

6. Discussion and Findings

A. The Effect of the Respondent's Default

If a respondent does not submit a response to a complaint, a panel decides the dispute based upon the complaint. Rules, paragraphs 5(f) and 14(a). Because the Complainant has the burden of proof, Policy, paragraph 4(a), the Complainant must still prove the elements of a claim to obtain the requested relief, notwithstanding the Respondent's default. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.3.

In the absence of exceptional circumstances, a respondent's failure to respond to a complaint requires that a panel draw the inferences from this failure that it considers proper. Rules, paragraph 14(b). The Panel finds that no exceptional circumstances exist for the failure of the Respondent to submit a response. Accordingly, the Panel infers that the Respondent does not deny the facts alleged and the contentions urged by the Complainant based upon these facts, and will draw all reasonable inferences that are proper from the evidence and the facts found by the Panel. *Id.*

Although the Panel may draw negative inferences from the Respondent's default, the Complainant may not rely on conclusory allegations and must support its allegations with evidence to prove the three elements. [WIPO Overview 3.0](#), section 4.3.

B. Supplemental Filing

The Complainant submitted a Supplemental Filing on August 10, 2022, 14 days after the Center notified the Respondent of the Complaint and this proceeding began, and six days before a response to the Complaint was due. The Complainant sent a copy of the Supplemental Filing to the Respondent at the email address supplied by the Registrar. The Respondent did not submit a response to the Complaint or request additional time to respond in view of the Supplemental Filing.

The Rules do not expressly address supplemental filings. They provide that a panel determines the admissibility of evidence, paragraph 10, and that a panel "may request, in its sole discretion, further statements or documents", paragraph 12. Accordingly, panels discourage unsolicited supplemental filings. [WIPO Overview 3.0](#), section 4.6 and 4.7.

In the view of this Panel, if a party believes that it has a legitimate reason for a supplemental filing, the preferred procedure is to request permission to submit an unsolicited filing, except when, as here, the Panel is not yet appointed. In such a case, a supplemental filing will not unduly delay the proceeding. After appointment, a panel may determine whether to accept the filing, what weight to give it, and whether the Respondent deserves additional time to respond, if requested.

In view of the representation of the Complainant that it did not receive notice of the evidence in its Supplemental Filing until 18 days after it had submitted its Complaint, its relevance on its face, and its filing prior to the appointment of the Panel, the Panel will accept the Supplemental Filing.¹ The Panel will address the weight of the evidence in the Supplemental Filing in Part 6(C)(iii) below.

C. Elements of a Claim

A complainant must prove three elements to obtain relief: (i) the domain name is identical or confusingly similar to a trademark in which the complainant has rights; (ii) the respondent has no rights or legitimate interests in the domain name; and (iii) the respondent registered and is using the domain name in bad faith. Policy, paragraph 4(a).

(i) Identical or Confusingly Similar

On the first element, the Complainant must prove that (1) it has rights in a trademark and (2) the Domain Name is identical or confusingly similar to this trademark. Policy, paragraph 4(a)(i).

The Panel finds that the Complainant's United States trademark registrations establish the Complainant's trademark rights in its EQUIFAX mark. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds that the Domain Name is confusingly similar to the Complainant's EQUIFAX trademark. The Domain Name incorporates the entire trademark, and the trademark is easily recognizable within the Domain Name. [WIPO Overview 3.0](#), section 1.7. The addition in the Domain Name of the word "jobs" after the trademark does not prevent a finding of confusing similarity. [WIPO Overview 3.0](#), section 1.8. Unless it contributes to confusing similarity, panels disregard the generic Top-Level Domain in determining confusing similarity. [WIPO Overview 3.0](#), section 1.11.

Accordingly, the Panel concludes that the Complainant has proven the first element, namely, that the Domain Name is confusingly similar to a trademark in which it has rights.

(ii) Rights or Legitimate Interests

The Policy provides a non-exclusive list of circumstances that, if a panel finds proved, demonstrates that a respondent has rights to, or legitimate interests in, a domain name for the purposes of paragraph 4(a)(ii) of the Policy: (i) before any notice to a respondent of the dispute, its 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) a respondent has been commonly known by the domain name, even if it has acquired no trademark or service mark rights; or (iii) a respondent is 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. Policy, paragraph 4(c).

The Panel finds, on the basis of the Complainant's trademark registrations and the date of the Domain Name registration, that the Complainant has trademark rights that precede the registration of the Domain Name.

¹ The Complainant alleges in its Supplemental Filing, paragraph 1(2), that its filing ("as here") "addresses matters raised in the Response which could not reasonably have been anticipated". The Panel finds that the inclusion of this reference to a Response, in addition to matters that could not have been anticipated, was inadvertent.

The Complainant has alleged that it has not transferred its trademark to the Respondent or authorized the Respondent to use its trademark. Because the Respondent has not contested these allegations and the Complainant has certified that the information in the Complaint is complete and accurate, the Panel accepts these allegations as proven. Rules, paragraph 14(b) and 10(d); [WIPO Overview 3.0](#), section 4.3.

Additionally, the Panel finds that the Domain Name does not resolve to a functioning web site on which the Respondent is conducting a business, thereby providing no evidence of a *bona fide* commercial, noncommercial, or fair use of the Domain Name; the Respondent used a privacy service; the Registrar identified the Respondent as “David Mayor”, a name that does not resemble the Domain Name; and the email address that the Registrar provided for the Respondent has no apparent relation to the Respondent’s name or to the Domain Name, all of which corroborate that the Respondent is not known by the Domain Name and is not using the Domain Name for a legitimate commercial noncommercial, or fair use.

For the reasons set forth in the preceding two paragraphs, the Panel finds that the Complainant has shown, *prima facie*, the second element—that the Respondent lacks rights or legitimate interests in the Domain Name.

The Respondent has not claimed that (1) it is using, or has made any preparations to use, the Domain Name in connection with a *bona fide* offering of goods or services; or (2) it is commonly known by the Domain Name; or (3) it is making a noncommercial or fair use of the Domain Name.

Where a complainant shows *prima facie* that a respondent lacks rights or legitimate interests, the burden of production on this second element shifts to the respondent to come forward with relevant evidence proving rights or legitimate interests in the domain name. [WIPO Overview 3.0](#), section 2.1. The Respondent here has not submitted any evidence to rebut the *prima facie* showing.

Accordingly, the Panel concludes that the Complainant has proven the second element, namely, that the Respondent lacks rights or legitimate interests in the Domain Name.

The Complainant has also alleged, in support of its contention that the Respondent lacks rights or legitimate interests in the Domain Name, that the Respondent registered and used the Domain Name to engage in phishing activities. Because the Panel has already concluded that the Complainant has proven the second element, the Panel will defer a discussion of this alleged scheme to Part 6(C)(iii) below. [WIPO Overview 3.0](#), section 2.15.

(iii) Registered and Used in Bad Faith

The Policy expressly provides that the four particular circumstances that it specifies as “evidence of the registration and use of a domain name in bad faith” are “without limitation”. Policy, paragraph 4(b). Panels have consistently found that “given that the use of a domain name for per se illegitimate activity such as the sale of counterfeit goods or phishing can never confer rights or legitimate interests on a respondent, such behavior is manifestly considered evidence of bad faith”. [WIPO Overview 3.0](#), section 3.1.4. See [WIPO Overview 3.0](#), section 3.4. In the view of this Panel, deceptive conduct is also evidence of registration and use of a domain name in bad faith.

The composition of the Domain Name, which incorporates the Complainant’s distinctive and well-known trademark, and adds to the trademark the word “jobs”, which is routinely used (along with similar words, such as “careers”) after a trademark by trademark and domain name owners, demands an explanation, particularly when the trademark is widely known and it is implausible that the Respondent was not aware of the trademark. The composition of the Domain Name and the Respondent’s lack of an explanation, coupled with an absence of rights or legitimate interests, tends to show bad faith. [WIPO Overview 3.0](#), sections 3.2.1 and 3.2.2. Because the Respondent has not offered an explanation for the Domain Name, the Panel finds that the Respondent was aware of the Complainant’s trademark when it registered the Domain Name and chose the Domain Name deliberately, *i.e.*, that its registration was in bad faith.

The Complainant initially alleged that it had received reports that the Respondent was using the Domain Name in connection with phishing activities and that the MX record for the Domain Name had been configured to allow the Respondent to send and receive email using the Domain Name. The Complainant offered an MX record for the Domain Name in support of these allegations. Because the Respondent has not denied these allegations, the Panel accepts them as proven and finds that the Respondent used the Domain Name in bad faith. The findings in this paragraph and the preceding paragraph are sufficient for the Panel to conclude bad faith registration and use.

In its Supplemental Filing, the Complainant alleges that it “received a report of a fake job offer and employment contract that had been sent via email, using the disputed Domain Name, to a third party”. The Complainant alleges that “[t]he fake email and employment contract . . . were *not* sent by Complainant (emphasis in original)”, but were “part of an apparent employment phishing scam”, using the Domain Name. The Complainant contends that this employment phishing scam demonstrates that the Respondent has no rights or legitimate interests in the Domain Name and constitutes bad faith.

In Annex A to its Supplemental Filing, the Complainant provided evidence, in the form of five documents. The first appears to be an excerpt from one email of a series of six messages from the sender, “Customer Service Repres . . .”, but purportedly coming from the Human Resources Department at the Complainant. The second and third appear to be screenshots of the contact information and additional actions pages of two separate email senders, one unidentified, except for the email address “[...]@equifaxjobs.com”, and the other with the email address identifying the Human Resources Department at the Complainant. The fourth is an excerpt of an email from a series of three, again purportedly from the Human Resources Department of the Complainant, showing a portion of a list of “Screening Test/Interview Questions for Equifax Customer Service (Remote Position)”. The fifth is a purported Equifax Employment Contract purportedly from the CEO of Equifax.

The Complainant has failed to explain whether it has an employee under the names of the alleged senders of the emails; whether the senders are the Complainant’s employees and any relationship to any emails; which of the email addresses that it includes in its evidence are associated with which emails and email senders; the reason that it has provided only excerpts of the alleged fake emails and has not provided the portion showing the sender; and the source of the alleged fake employment contract (e.g., attached to an email from what sender and from what email address).

Nevertheless, the Panel finds the evidence minimally supportive of the claim of an employment phishing scam and sufficient evidence of targeting a potential employee of the Complainant with impersonation, which is *per se* illegitimate activity and a bad faith use of the Domain Name, particularly because the Respondent used the Complainant’s figurative trademark and a business address of the Complainant in an email to a third party. [WIPO Overview 3.0](#), sections 3.1.4 and 3.4.

The findings that the Respondent targeted a third party and impersonated the Complainant support the Panel’s conclusion that the Respondent (1) attempted to mislead a third party with a prospective employee email phishing scheme; (2) intentionally registered the Domain Name in bad faith to impersonate the Complainant; (3) used it in bad faith to impersonate, taking unfair advantage of the Complainant’s trademark. [WIPO Overview 3.0](#), sections 3.1, 3.1.4, and 3.4.

Moreover, it is common knowledge that owners of web sites customarily use email addresses containing the domain name of a web site in electronic mail communications. The use of a domain name that presents a likelihood of confusion with a trademark in emails that do not originate with the trademark owner presents a risk to the reputation of a trademark and its owner. *Applied Materials, Inc. v. Proxy Protection LLC / John Smith*, WIPO Case No. [D2022-0026](#). Even if the Complainant had not provided any evidence of impersonation, the Respondent has not rebutted that it engages in this practice, which is noteworthy given the configuration of MX records for the Domain Name. Moreover, with some evidence of at least one impersonating email, the risk of other deceptive or abusive emails is substantial. *Id.*

The Panel finds that the substantial risk of future deceptive emails associated with the Domain Name is another reasonable basis, given the failure to rebut and the impersonation already found, from which to infer bad faith use and that the Respondent's bad faith existed at the time of its registration of the Domain Name.

Accordingly, the Panel concludes that the Complainant has proven the third element, namely, that the Respondent registered and has used the Domain Name in bad faith.

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, <equifaxjobs.com>, be transferred to the Complainant.

/A. Justin Ourso III/

A. Justin Ourso III

Sole Panelist

Date: September 6, 2022