

ADMINISTRATIVE PANEL DECISION

Equifax Inc. v. Frank Gerdes
Case No. D2022-3540

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 Frank Gerdes, Netherlands, self-represented.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 24, 2022. On September 26, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 27, 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 (Jewella Privacy - 228b6, Jewella Privacy LLC Privacy ID# 841286, United States) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 28, 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 September 28, 2022.

On September 28, 2022, the Respondent sent an informal communication.

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 September 29, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 19, 2022. The Respondent did not submit a formal response. Accordingly, the Center notified the Parties that it would proceed to Panel Appointment on October 20, 2022.

The Center appointed Emre Kerim Yardimci as the sole panelist in this matter on October 27, 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 a global provider of information solutions and human resources business process outsourcing services for businesses, consumers, and governments.

With its headquarter located in the United States, the Complainant operates or has investments in 24 countries in North America, Central and South America, Europe, and the Asia Pacific region.

The Complainant is a member of Standard & Poor's 500 Index, and its common stock is traded on the New York Stock Exchange. The Complainant employs approximately 11,000 people worldwide.

The Complainant owns more than 220 EQUIFAX trademark registrations in 56 jurisdictions. Among others, the Complainant has following trademark registrations:

- United States Registration No. 1,027,544, registered on December 16, 1975, in respect of services in class 36;
- United States Registration No. 1,045,574, registered on August 3, 1976, in respect of services in class 35;
- United States Registration No. 1,644,585, registered on May 14, 1991, in respect of services in classes 35, 36, and 42.

The Complainant registered its domain name <equifax.com> on February 21, 1995, for use as its website since then in order to promote its services.

The disputed domain name was registered on October 29, 2001. In accordance with evidence presented by the Complainant, the Respondent used the disputed domain name in connection with a pay-per-click ("PPC") page that includes links for services related to EQUIFAX trademark under links such as "Equifax free report".

5. Parties' Contentions

A. Complainant

The disputed domain name is confusingly similar to the Complainant's EQUIFAX trademark in which it has rights. The disputed domain name contains the Complainant's EQUIFAX trademark except that the letter "f" is substituted with the letter "r". This is a case of typosquatting, as the letter substitution is an intentional misspelling of the trademark EQUIFAX.

The Respondent has no rights or legitimate interests in the disputed domain name. The Respondent has not been authorized or licensed by the Complainant to use the EQUIFAX trademark in any manner. To the best of the Complainant's knowledge, the Respondent has never been commonly known by the disputed domain name nor acquired any trademark rights in "equirax". There has been no *bona fide* offering of goods or services by the Respondent in its manner of use of the disputed domain name. The third-party links posted on the parking page read as "Credit Report" and "Equifax Free Report".

The disputed domain name was registered and is being used in bad faith. There is evidence that the Respondent appears to have had a long history of cybersquatting and numerous adverse UDRP decisions made against it.

The Respondent would have been well aware of the Complainant's EQUIFAX trademark at the time the disputed domain name was registered as the Complainant's EQUIFAX trademark is famous and/or widely known across the world and its first registration dates from 26 years before the time of the registration of the disputed domain name.

B. Respondent

The Respondent did not reply to the Complainant's contentions. However, the Respondent offered to transfer the disputed domain name without citing any condition in its email communication to the Center.

6. Discussion and Findings

6.1. Effect of the unilateral consent to transfer by the Respondent

The Panel must decide whether to grant a unilateral consent to transfer by the Respondent.

Several prior UDRP decisions show that it is the panel's discretion to issue a transfer when the respondent has given its unilateral and unambiguous consent to transfer, or to address the conditions for transfer under paragraph 4(a) of the Policy. In this regard, broader circumstances of a case may lead a panel to proceed to a substantive decision on the merits, despite a respondent's consent. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.10.

Although the Panel has the authority to order a transfer based on the Respondent's consent without further analysis, the Panel considers it appropriate in the circumstances of this case, noting in particular the history of adverse UDRP decisions against the Respondent, to proceed to consider the merits of the case.

6.2. Substantive Issues

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. As indicated above, the Complainant holds multiple registrations for EQUIFAX.

The disputed domain name is confusingly similar to the Complainant's mark EQUIFAX having a letter "r" instead of an "f" in its third syllable. The Panel agrees that a difference of one letter does not prevent a finding of confusing similarity with the Complainant's EQUIFAX trademark. As regards the generic Top-Level Domain ".com", it is typically disregarded under the confusing similarity test.

Accordingly, the Panel holds that the disputed domain name is confusingly similar for the purposes of the Policy with a trademark in which the Complainant has rights.

As such the Panel holds that paragraph 4(a)(i) of the Policy has been satisfied.

B. Rights or Legitimate Interests

The Complainant has made a *prima facie* showing of a lack of the Respondent's rights or legitimate interests in the disputed domain name. The Respondent is not commonly known by the disputed domain name, and the use of the disputed domain name to display PPC links competing with or capitalizing on the Complainant's trademark constitutes neither a *bona fide* offering of goods or services, nor a legitimate noncommercial or fair use in this case.

The Respondent made no effort to demonstrate any rights or legitimate interests in the disputed domain name. On the contrary, the Respondent has expressed its consent to transfer the disputed domain name to the Complainant.

Accordingly, the Panel determines the Complainant has sufficiently demonstrated that the Respondent lacks rights or legitimate interests in disputed domain name.

C. Registered and Used in Bad Faith

The Panel accepts the Complainant's contention that the trademark EQUIFAX is a well-known trademark at the time of the registration of the disputed domain name.

The confusingly similar use of a well-known trademark into a domain name by a registrant having no plausible explanation for doing so may be, in and of itself, an indication of bad faith (*Veuve Clicquot Ponsardin, Maison Fondée en 1772 v. The Polygenix Group Co.*, WIPO Case No. [D2000-0163](#); *General Electric Company v. CPIC NET and Hussain Syed*, WIPO Case No. [D2001-0087](#); *Microsoft Corporation v. Montrose Corporation*, WIPO Case No. [D2000-1568](#)).

The Panel is of the view that at the time the Respondent registered the disputed domain name, the Respondent is more than likely to have been well aware of the EQUIFAX trademarks.

Moreover, according to the Policy it is necessary to show not only that the disputed domain name is being used in bad faith, but that it was also registered in bad faith.

It is undoubted that in 2001 (at the time of the registration of the disputed domain name) the Complainant's trademark EQUIFAX had already been a well-known trademark for a long time. As the Complainant submits, it is inconceivable that the Respondent would not have known of the Complainant's mark.

The fact that the disputed domain name in its PPC page comprises the links "Credit Report" and "Equifax free report" corroborates the Panel's finding that the disputed domain name was obviously registered by the Respondent with the Complainant in mind. Noting the absence of any submission from the Respondent to the contrary, the fact that the website contains links relating to the trademark of the Complainant and the services provided by the Complainant, it is unequivocally clear that this registration was made without the consent of the Complainant and in order to take advantage of the Complainant's mark.

According to [WIPO Overview 3.0](#), section 3.5, the fact that PPC links are generated by a third party, or the fact that the respondent itself may not have directly profited, would by itself not prevent a finding of bad faith. Several panels have held that a respondent cannot disclaim responsibility for content with respect to "automatically" generated PPC links. Therefore, bad faith exists even if Respondent should argue that it was unaware of the monetized parking page associated with the disputed domain name.

Furthermore, the Panel notes that Respondent's history of cybersquatting, as evidenced by prior adverse decisions under the Policy, further supports an inference of bad faith.

Lastly, the Panel notes the reputation of the Complainant's mark, single-letter typo variation, and the fact that the letter "r" is located directly above the letter "f" on a QWERTY keyboard, reinforce the bad faith intention of typosquatting by the Respondent.

It is not plausible that the disputed domain name was legitimately registered without the intention in some way or another to take unfair advantage of the similarity between the disputed domain name and the Complainant's trademark.

Therefore, the Panel finds that the Respondent registered and is using the disputed domain name in bad faith.

The Complainant has established the requirements of 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 <equirax.com> be transferred to the Complainant.

/Emre Kerim Yardimci/

Emre Kerim Yardimci

Sole Panelist

Date: November 14, 2022