

## **ADMINISTRATIVE PANEL DECISION**

Equifax Inc. v. Wesley Karr, Speedplexer, Inc  
Case No. D2022-4430

### **1. The Parties**

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

Respondent is Wesley Karr, Speedplexer, Inc, United States.

### **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 November 20, 2022. On November 21, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 23, 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 Complainant on November 24, 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 November 25, 2022. In response to a notification by the Center that the Complaint was administratively deficient, Complainant filed a second amendment to the Complaint on November 30, 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 Respondent of the Complaint, and the proceedings commenced on December 1, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 21, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on December 22, 2022.

The Center appointed Jeffrey D. Steinhardt as sole panelist in this matter on January 4, 2023. 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 provider of information solutions and human resources business process outsourcing services, including credit reporting services. Complainant is owner of the EQUIFAX trademark which is registered in dozens of countries worldwide. For example, Complainant owns the United States registration for the EQUIFAX trademark under U.S. Reg. No. 1,027,544 in Class 36, registered December 16, 1975 with a first use in commerce date of March 4, 1975.

The disputed domain name was registered March 14, 2006. On November 19, 2022, the day before the Complaint was filed, the disputed domain name routed to the webpage at "www.transunion.com".

Complainant previously brought against Respondent a successful UDRP complaint for Respondent's registration of the domain name <equifax.com>. *Equifax Inc. v. Wesley Karr*, WIPO Case No. [D2022-4190](#) (transfer).

Respondent's domain name registrations have also been found to have violated the UDRP in several previous decisions. *Williams-Sonoma, Inc. v. Wesley Karr, Power Click*, WIPO Case No. [D2022-3915](#); *Do House Inc. v. Super Privacy Service LTD c/o Dynadot / Wesley Karr*, WIPO Case No. [D2022-2451](#); *Project Management Institute, Inc. v. Super Privacy Service LTD / Wesley Karr*, WIPO Case No. [D2022-2259](#); and *AB Electrolux v. Wesley Karr, Power Click*, WIPO Case No. [D2021-0870](#).

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

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

Complainant avers that it was founded in the early 1900s and presently employs some 11,000 people worldwide. The Complaint provides a brief video clip dated November 19, 2022, documenting a web search using the <equifax.com> disputed domain name. The web search demonstrates a redirection of users to the webpage at "www.transunion.com". Citing a U.S. government source, Complainant also avers that it is one of three consumer credit reporting agencies in the United States and that TransUnion is one of Complainant's competitors.

Summarizing its legal contentions, Complainant alleges that (1) the disputed domain name is confusingly similar to Complainant's EQUIFAX trademark, (2) Respondent has no rights or legitimate interests in the disputed domain name, and (3) the disputed domain name was registered and is being used in bad faith, all in violation of the Policy.

On the foregoing basis, Complainant requests transfer of the disputed domain name.

##### **B. Respondent**

Respondent did not reply to Complainant's contentions.

## 6. Discussion and Findings

The Rules require the Panel to decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules, and any rules and principles of law that it deems applicable. Rules, paragraph 15(a). Complainant must establish each element of paragraph 4(a) of the Policy, namely:

- (i) the disputed 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 disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

Complainant must establish these elements even if Respondent does not submit a response. See, e.g., *The Vanguard Group, Inc. v. Lorna Kang*, WIPO Case No. [D2002-1064](#). In the absence of a Response, the Panel may also accept as true the reasonable factual allegations in the Complaint. See, e.g., *ThyssenKrupp USA, Inc. v. Richard Giardini*, WIPO Case No. [D2001-1425](#) (citing *Talk City, Inc. v. Michael Robertson*, WIPO Case No. [D2000-0009](#)).

### A. Identical or Confusingly Similar

The Panel agrees with Complainant's allegation that the disputed domain name is confusingly similar to Complainant's EQUIFAX mark.

UDRP panels commonly disregard Top-Level Domains ("TLDs") in determining whether a disputed domain name is identical or similar to a complainant's marks. See, e.g., *HUK-COBURG haftplicht-Unterstützungs-Kasse kraftfahrender Beamter Deutschlands A.G. v. DOMIBOT (HUK-COBURG-COM-DOM)*, WIPO Case No. [D2006-0439](#); *VAT Holding AG v. Vat.com*, WIPO Case No. [D2000-0607](#); and *Shangri-La International Hotel Management Limited v. NetIncome Ventures Inc.*, WIPO Case No. [D2006-1315](#).

Omitting the ".com" TLD from the disputed domain name, the Panel notes that the entire EQUIFAX mark is included in the disputed domain name, adding only the letter "y". The Panel finds that the addition to Complainant's EQUIFAX mark of this sole letter does not prevent a finding of confusing similarity. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.9 (UDRP panels consider domain names which consist of a common, obvious, or intentional misspelling of a trademark are considered to be confusingly similar).

The Panel therefore finds that the disputed domain name is confusingly similar to Complainant's mark.

The Panel concludes that the first element of paragraph 4(a) of the Policy is established.

### B. Rights or Legitimate Interests

The Panel also concludes that Respondent has no rights or legitimate interests in the disputed domain name.

The Policy contains a non-exhaustive list of circumstances that may demonstrate when a respondent has rights or legitimate interests in a domain name. The list includes: (1) using the domain name in connection with a *bona fide* offering of goods and services; (2) being commonly known by the domain name; or (3) making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers. The Policy, paragraphs 4(c)(i) – (iii).

A complainant must show a *prima facie* case that a respondent lacks rights or legitimate interests in a disputed domain name, after which the burden of rebuttal passes to the respondent. See, e.g., *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#). The absence of rights or

legitimate interests is established if a complainant makes out a *prima facie* case and the respondent enters no response. *Id.*, (citing *De Agostini S.p.A. v. Marco Cialone*, WIPO Case No. [DTV2002-0005](#)).

The Panel accepts the Complaint's undisputed allegations that Respondent has no relevant trademark rights and has no authorization or license to use Complainant's trademark in the disputed domain name. The Panel also accepts the Complaint's averment that Respondent is not commonly known by the disputed domain name.

Complainant has submitted credible evidence that the disputed domain name routes users to the webpage of TransUnion, one of Complainant's direct competitors. This evidence establishes that Respondent is not making a *bona fide* use of the disputed domain name. Moreover, it also shows that Respondent lacks rights or legitimate interests. [WIPO Overview 3.0](#), section 2.5.3; *Equifax Inc. v. Domain Administrator, Fundacion Privacy Services LTD*, WIPO Case No. [D2022-2343](#) (<esquifax.com> disputed domain name redirected users to website for TransUnion, transfer ordered); *Scott and White Memorial Hospital and Scott, Sherwood, and Brindley Foundation v. Bao Shui Chen*, WIPO Case No. [D2009-0174](#); and *Zumiez Inc. v. Richard Jones*, WIPO Case No. [D2007-0024](#).

In light of the evidence and allegations of the Complaint, the Panel finds that Respondent is not making a legitimate noncommercial or fair use of the disputed domain name and that Complainant establishes a *prima facie* case. Omitting to submit a response, Respondent has neither contested nor rebutted that *prima facie* case.

The Panel finds, therefore, that Respondent has no rights or legitimate interests in the disputed domain name and that the second element of the Policy is established.

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

The Panel also agrees that the Complaint establishes that Respondent has registered and used the disputed domain in bad faith, as required under paragraph 4(a)(iii) of the Policy.

Paragraph 4(b) of the Policy provides that the following circumstances, without limitation, evidence the registration and use of a domain name in bad faith:

“(i) circumstances indicating that [the respondent has] registered or has acquired the domain name primarily for the purpose of selling, renting or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of [the respondent's] documented out-of-pocket costs directly related to the domain name; or

(ii) [the respondent has] registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that [the respondent has] engaged in a pattern of such conduct; or

(iii) [the respondent has] registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent's] 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 [the respondent's] website or location or of a product or service on [the respondent's] website or location.”

The above circumstances are not exhaustive and there may be other evidence of registration and use in bad faith. [WIPO Overview 3.0](#), section 3.1 (noting that evidence demonstrating that a respondent seeks to take unfair advantage of, abuse, or otherwise engage in behavior detrimental to the complainant's trademark also satisfies the complainant's burden).

Evidence establishing Respondent's bad faith here is ample. Respondent has engaged in a pattern of abuse of others' trademark rights, including multiple registrations of domain names that are confusingly similar to Complainant's EQUIFAX trademark.

Respondent has also used the disputed domain name to create confusion by redirecting Internet users to Complainant's competitor, TransUnion.

The Panel finds that a presumption of bad faith is created by Respondent's mere registration of a domain name which is confusingly similar to Complainant's widely-known EQUIFAX trademark. *Id.*, section 3.1.4. Respondent has submitted no evidence to contradict this presumption.

The Panel finds that the third element of paragraph 4(a) 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.

*/Jeffrey D. Steinhardt/*

**Jeffrey D. Steinhardt**

Sole Panelist

Date: January 18, 2023