

ADMINISTRATIVE PANEL DECISION

Equifax Inc. v. 杨智超 (Zhichao Yang)

Case No. D2022-4825

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 杨智超 (Zhichao Yang), China.

2. The Domain Name and Registrar

The disputed domain name <myequifax.com> is registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on December 16, 2022. On December 16, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 20, 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 December 21, 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 in English on December 22, 2022.

On December 21, 2022, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On December 22, 2022, the Complainant submitted its request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

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 December 28, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 17, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 19, 2023.

The Center appointed Douglas Clark as the sole panelist in this matter on February 1, 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

The Complainant is a United States company incorporated in 1913, providing information solutions and human resources business process outsourcing services. Among its various services, the Complainant also offers a credit report service and operates this service under the name Equifax. The Complainant is also the registrant of the domain name <equifax.com>.

The Complainant is the owner of numerous trademark registrations around the world for EQUIFAX including the following in the United States and China:

Country	Trademark	Registration Number	Registration Date
United States	EQUIFAX	1,027,544	December 16, 1975
United States	EQUIFAX	1,045,574	August 3, 1976
United States	EQUIFAX	1,644,585	May 14, 1991
China	EQUIFAX	6513509	March 28, 2010
China	EQUIFAX	2015983	October 7, 2002

The Respondent is an individual based in China. The Respondent has also been the registrant of a number of domain names that incorporate the trademarks of the Complainant or others which have been ordered to be transferred to the complainant in other UDRP proceedings, such as:

- *Equifax Inc. v. 杨智超 (Zhichao Yang)*, WIPO Case No. [D2021-3318](#);
- *Equifax Inc. v. Zhichao Yang, 杨智超 (Zhichao Yang), 林彦晓 (Yan Xiao Lin)*, WIPO Case No. [D2021-3287](#);
- and
- *Oboleo Ltd v. 杨智超 (Zhi Chao Yang), Zhichao Yang, Zhichao, Privacy Administrator, Anonymize, Inc., Carolina Rodrigues, Fundacion Comercio Electronico, and Milen Radumilo*, WIPO Case No. [D2020-1952](#).

The disputed domain name <myequifax.com> was registered on November 10, 2021. At the date of this Complaint, the disputed domain name resolved to a parked webpage offering pay-per-click to third party websites.

5. Parties' Contentions

A. Complainant

The Complainant contends that:

- (a) the disputed domain name is confusingly similar to its trademark. The disputed domain name wholly incorporates the Complainant's well known EQUIFAX trademark preceded by the term "my" and transposing the letters "i" and "f". The generic Top-Level Domain ("gTLD") ".com" in the disputed domain name does not eliminate the overall notion that the designations are connected to the trademark and the likelihood of confusion that the disputed domain name and the trademark are associated;

(b) the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not affiliated with the Complainant in any way and the Complainant has never granted the Respondent any authorisation or license to use the Complainant's trademark. The Respondent is not commonly known by the disputed domain name, and has not made a *bona fide* offering of goods or services or a legitimate noncommercial or fair use of the disputed domain name; and

(c) the disputed domain name was registered and is being used in bad faith. The mere fact that the Respondent has registered a domain name incorporating trademark of a well-known company gives rise to an inference of bad faith. Based on the use of the disputed domain name, the Respondent registered and is using the disputed domain name to attract Internet users for commercial gain, creating a likelihood of confusion with the Complainant's trademark. The Respondent is a serial cybersquatter, and the registration and use of the disputed domain name are in bad faith.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

6.1 Preliminary Issue – Language of the Proceeding

According to paragraph 11(a) of the Rules, unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

In this case, the language of the Registration Agreement for the disputed domain name is in Chinese. Based on the given evidence, there is no agreement between the Complainant and the Respondent regarding the language of the proceeding. The Respondent did not respond as to the language of the proceeding. The Complainant has filed its Complaint in English and has requested that English be the language for the proceeding under the following grounds:

- a) the disputed domain name consists of the Complainant's EQUIFAX trademark solely transposing two letters plus the English word "my";
- b) the disputed domain name has been used by the Respondent in connection with a website containing only English; and
- c) previous UDRP panels have found English to be the appropriate language for a proceeding involving the same Respondent.

In accordance with paragraph 11(a) of the Rules, the Panel hereby determines that the language of the proceeding shall be in English after considering the following circumstances:

- the Center has notified the Respondent of the proceeding in both English and Chinese;
- the Respondent has not commented on the language of the proceeding;
- the website under the disputed domain name is in English; and
- an order for the translation of the Complaint will result in significant expenses for the Complainant and a delay in the proceeding.

Further, this Panel decided in *Zappos.com, Inc. v. Zufu aka Huahaotrade*, WIPO Case No. [D2008-1191](#), that a respondent's failure to respond to a preliminary determination by the Center as to the language of the proceeding "should, in general, be a strong factor to allow the Panel to decide to proceed in favour of the language of the Complaint".

6.2 Substantive Issues

The Complainant must satisfy all three elements of paragraph 4(a) of the Policy in order to succeed in its action:

- (i) the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights to;
- (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.

A. Identical or Confusingly Similar

The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark. The disputed domain name incorporates the EQUIFAX trademark, merely transposing the letters "i" and "t", preceded by the word "my", and ending with the gTLD ".com". The gTLD is generally disregarded when considering the first element. (See section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#))).

The Complainant has therefore satisfied the first element under paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

The Respondent has not asserted any rights or legitimate interests in relation to the disputed domain name.

Section 2.1 of the [WIPO Overview 3.0](#) provides:

"While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of 'proving a negative', requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element."

The Panel finds that the Complainant has made out a *prima facie* case that the Respondent lacks rights or legitimate interests, which has not been rebutted by the Respondent. Accordingly, the Respondent has no rights or legitimate interests in regard to the disputed domain name.

Given the Panel's findings below on the Respondent's registration and use of the confusingly similar disputed domain name to mislead unsuspecting Internet users to a pay-per-click website ultimately redirecting said Internet users to third party websites, the Respondent cannot be said to be using the disputed domain name for a *bona fide* offering of goods or services.

The second element of paragraph 4(a) of the Policy is therefore satisfied.

C. Registered and Used in Bad Faith

Based on the given evidence, the disputed domain name was registered and is being used in bad faith.

The disputed domain name was registered long after the Complainant has registered the EQUIFAX trademark and the use of the Complainant's EQUIFAX trademark cannot be a coincidence. The EQUIFAX trademark is used by the Complainant to conduct its business and the Complainant has used the trademark for over 47 years. The Panel is satisfied that the Respondent was aware of the Complainant and its EQUIFAX trademark when he or she registered the disputed domain name.

The Respondent has registered the disputed domain name to attract Internet users to the website under the disputed domain name for commercial gain in accordance with paragraph 4(b)(iv) of the Policy. The disputed domain name directs Internet users to a parked webpage showing pay-per-click links to third party websites. As mentioned above, the Respondent is also a serial cybersquatter that has lost numerous domain name dispute proceedings, including cases filed by the Complainant.

For the above reasons, the Panel finds that the disputed domain name was registered and is being used in bad faith.

The Complainant has therefore satisfied the third element under paragraph 4(a) 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, <myequifax.com>, be transferred to the Complainant.

/Douglas Clark/

Douglas Clark

Sole Panelist

Date: March 13, 2023