

ADMINISTRATIVE PANEL DECISION

Equifax Inc. v. Yang Zhi Chao (杨智超)
Case No. D2023-0533

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 Yang Zhi Chao (杨智超), China.

2. The Domain Name and Registrar

The disputed domain name <efuifax.com> is registered with eName Technology Co., Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on February 4, 2023. On February 6, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 7, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name that differed from the named Respondent (Undisclosed) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 9, 2023, 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 February 10, 2023.

On February 9, 2023, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On February 10, 2023, the Complainant requested 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 in English and Chinese of the Complaint, and the proceedings commenced on February 17, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 9, 2023. The Respondent did not submit any

response. Accordingly, the Center notified the Respondent's default on March 10, 2023.

The Center appointed Matthew Kennedy as the sole panelist in this matter on March 23, 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 provider of information solutions and human resources business process outsourcing services. It offers *inter alia* 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. The Complainant holds multiple trademark registrations for EQUIFAX in multiple jurisdictions, including:

- United States trademark registrations numbers 1027544, 1045574, and 1644585, registered on December 16, 1975, August 3, 1976, and May 14, 1991, respectively (all with claims of first use in commerce on dates in 1975), and collectively specifying services in classes 36, 35, and 42, including credit information services; and
- Chinese trademark registrations numbers 1955419 and 2015983, registered on November 7, 2002, and October 7, 2002, respectively, specifying services in classes 36 and 42, respectively, including credit information services.

The above trademark registrations remain current. The Complainant also registered the domain name <equifax.com> on February 21, 1995 that it uses in connection with its primary website where it provides information about itself and its products and services.

The Respondent is an individual resident in China.

The disputed domain name was created on June 21, 2022. It resolves to a landing page displaying Pay-Per-Click ("PPC") links regarding "Credit Bureau", "Equifax Credit Freeze", and "My Equifax".

5. Parties' Contentions

A. Complainant

The disputed domain name is confusingly similar to the Complainant's EQUIFAX trademark.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant has never assigned, granted, licensed, sold, transferred, or in any way authorized the Respondent to register or use the EQUIFAX trademark in any manner. By using the disputed domain name in connection with a PPC landing page that includes links for services related to the EQUIFAX trademark, the Respondent has failed to create a *bona fide* offering of goods or services under the Policy. The Respondent has never been commonly known by the disputed domain name. By using the disputed domain name in connection with a monetized parking page, the Respondent's actions are clearly commercial.

The disputed domain name was registered and is being used in bad faith. The EQUIFAX trademark is clearly famous and/or widely known, given that it is protected by at least 221 trademark registrations in at least 56 jurisdictions worldwide, the oldest of which was used and registered almost 48 years ago. Because the disputed domain name is "so obviously connected with" the Complainant, the Respondent's actions suggest "opportunistic bad faith" in violation of the Policy.

Further, the Complainant contends that the Respondent is a repeat cybersquatter who has lost numerous domain name dispute proceedings. Therefore, the Respondent has “engaged in a pattern of such conduct” pursuant to paragraph 4(b)(ii) of the Policy.

B. Respondent

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

6. Discussion and Findings

6.1 Language of the Proceeding

Paragraph 11(a) of the Rules provides that “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”. The Registrar confirmed that the Registration Agreement for the disputed domain name is in Chinese.

The Complainant requests that the language of the proceeding be English. Its main arguments are that the disputed domain name is a typographical version of the Complainant’s trademark, which is derived from English words; the disputed domain name resolves to a website containing only English; and previous panels under the UDRP have found English to be the appropriate language for proceedings involving the same Respondent as in this proceeding.

Paragraphs 10(b) and (c) of the Rules require the Panel to ensure that the Parties are treated with equality, that each Party is given a fair opportunity to present its case and that the administrative proceeding take place with due expedition. Prior UDRP panels have decided that the choice of language of the proceeding should not create an undue burden for the parties. See, for example, *Solvay S.A. v. Hyun-Jun Shin*, WIPO Case No. [D2006-0593](#); and *Whirlpool Corporation, Whirlpool Properties, Inc. v. Hui'erpu (HK) electrical appliance co. Ltd.*, WIPO Case No. [D2008-0293](#).

The Panel observes that the Complaint and the amendment to the Complaint in this proceeding were filed in English. Despite the Center having sent an email regarding the language of the proceeding, and the notification of the Complaint, in both Chinese and English, the Respondent did not comment on the language of the proceeding or express any interest in otherwise participating in this proceeding. Therefore, the Panel considers that requiring the Complainant to translate the Complaint into Chinese would create an undue burden and delay whereas accepting the Complaint in English does not cause prejudice to either Party.

Having considered all the circumstances above, the Panel determines under paragraph 11(a) of the Rules that the language of this proceeding is English.

6.2 Analysis and Findings

Paragraph 4(a) of the Policy provides that the Complainant must prove each of the following elements:

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

Based on the evidence presented, the Panel finds that the Complainant has rights in the EQUIFAX mark.

The disputed domain name incorporates the EQUIFAX mark with a typographical error (so-called “typosquatting”). Although the disputed domain name replaces the “q” in the mark with another “f”, it contains sufficiently recognizable aspects of the EQUIFAX mark to be considered confusingly similar to that mark. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.9.

The only other element in the disputed domain name is a generic Top-Level Domain (“gTLD”) extension (“.com”). As a standard requirement of domain name registration, this element may be disregarded in the comparison between a domain name and a trademark for the purposes of the first element of paragraph 4(a) of the Policy, unless it has some impact beyond its technical function, which is not the case here. See [WIPO Overview 3.0](#), section 1.11.

For the above reasons, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights. The Complainant has satisfied the first condition in paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets out the following circumstances which, without limitation, if found by the Panel, shall demonstrate that the respondent has rights to, or legitimate interests in, a disputed domain name, for the purposes of paragraph 4(a)(ii) of the Policy:

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

With respect to the first circumstance set out above, the disputed domain name, which incorporates the Complainant’s EQUIFAX mark with a typographical error, resolves to a landing page displaying PPC links that variously incorporate that exact mark or are related to the nature of a service that the Complainant provides (*i.e.*, credit reporting). The Panel does not consider this to constitute a *bona fide* offering of goods or services that would create rights or legitimate interests in the disputed domain name. See [WIPO Overview 3.0](#), section 2.9.

With respect to the second circumstance set out above, the Respondent’s name is listed in the Registrar’s WhoIs database as Yang Zhi Chao (杨智超). Nothing indicates that the Respondent has been commonly known by the disputed domain name.

With respect to the third circumstance set out above, the disputed domain name resolves to a landing page displaying PPC links that operate for the commercial gain of the Respondent, if he is paid to direct traffic to the linked sites, or the commercial gain of the operators of the linked sites, or both. None of these scenarios is a legitimate noncommercial or fair use of the disputed domain name.

In summary, the Panel considers that the Complainant has made a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent failed to rebut that *prima facie* case because he did not respond to the Complaint.

Therefore, based on the record of this proceeding, the Complainant has satisfied the second element in paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that certain circumstances, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith. The fourth circumstance is as follows:

- (iv) by using the [disputed] 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.

As regards registration, the disputed domain name was registered in 2022, many years after the registration of the Complainant's EQUIFAX mark, including in China, where the Respondent is resident. EQUIFAX is a coined term with no other meaning than as the Complainant's trademark. The disputed domain name incorporates that mark with a typographical error and adds only a gTLD extension. The operational element of the disputed domain name ("efuifax") appears to have no other significance than as an approximation of the EQUIFAX mark. Indeed, the PPC links generated on the landing page all either display the EQUIFAX mark correctly spelt or relate to a type of service that the Complainant provides under that mark. The Respondent provides no alternative explanation for his choice of the disputed domain name. In view of these circumstances, the Panel is persuaded that the Respondent had the Complainant and its EQUIFAX mark in mind when he registered the disputed domain name.

As regards use, the disputed domain name is evidently intended to attract Internet users searching for the Complainant and its products and services who mistype the EQUIFAX mark in a browser, and then divert them to the Respondent's landing page with its PPC links, even though it would eventually be clear to those who reach the landing page that it is not affiliated with the Complainant. Given these circumstances and the findings in Section 6.2B above, the Panel considers that by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to his online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of his location within the terms of paragraph 4(b)(iv) of the Policy.

Therefore, the Panel finds that the disputed domain name has been registered and is being used in bad faith. The Complainant has satisfied the third element in 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 <efuifax.com> be transferred to the Complainant.

/Matthew Kennedy/
Matthew Kennedy
Sole Panelist
Date: April 3, 2023