

ADMINISTRATIVE PANEL DECISION

Equifax Inc. v. Working Box
Case No. D2023-4030

1. The Parties

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

The Respondent is Working Box, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <equifax.com> is registered with Metaregistrar BV (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 26, 2023. On September 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 28, 2023, 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 (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant September 29, 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 on October 1, 2023.

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 October 5, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 25, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 27, 2023.

The Center appointed Alissia Shchichka as the sole panelist in this matter on October 31, 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 was established in 1913 and is a global provider of information solutions and human resources business process outsourcing services for businesses, governments and consumers.

The Complainant is a member of Standard & Poor's (S&P) 500 Index, and its common stock is traded on the New York Stock Exchange (NYSE) under the symbol EFX. Employing approximately 11,000 people, the Complainant operates or has investments in 24 countries in North America, Central and South America, Europe and the Asia Pacific region.

The Complainant owns several trademarks containing the term EQUIFAX, amongst others:

- US Reg. No. 1,027,544 (first used in commerce March 4, 1975; registered December 16, 1975), for the word mark EQUIFAX in class 36

The Complainant is also the owner of a domain name <equifax.com> registered since February 21, 1995.

The Complainant contends that several previous panels have recognized its rights in the EQUIFAX trademarks.

The above trademarks and domain name were registered prior to the registration of the disputed domain name, which was registered on September 19, 2023.

The disputed domain name currently displays an inactive webpage. According to the evidence provided by the Complainant, the Respondent has used the disputed domain name in connection with a phishing email impersonating an employee of Complainant and attempting to obtain payment for a fraudulent invoice from a customer.

5. Parties' Contentions

A. Complainant

The Complainant's contentions can be summarized as follows:

The Complainant submits that the Complainant's EQUIFAX trademark is clearly included and recognizable in the disputed domain name.

The addition of the letter "n," to the EQUIFAX trademark does not alter the overall impression that the disputed domain name is associated with the Complainant's trademark or prevent the likelihood of confusion between the disputed domain name and the Complainant and its trademarks.

In respect of the generic Top-Level Domain ("gTLD") ".com", which forms part of the disputed domain name, the Complainant requests that the Panel disregard it under the first element as it is a standard registration requirement.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not commonly known by the disputed domain name, has not used or prepared to use the disputed domain name in connection with a *bona fide* offering of goods or services, and has not been authorized, licensed, or otherwise permitted by the Complainant to register and/or use the disputed domain name.

The Complainant further contends that the trademark EQUIFAX is widely known and the Respondent knew about the Complainant's trademark, which evidences bad faith registration. Furthermore, the Complainant submits that the disputed domain name being pointed to an inactive page, is passively held. Finally, the Complainant presents evidence of the use of the disputed domain name in connection with a phishing scheme, wherein the Respondent impersonated an employee of the Complainant and attempted to collect payment for a fraudulent invoice. Such use cannot be considered a *bona fide* offering of goods or services.

Therefore, the Complainant alleges that the registration and use of the disputed domain name was, and currently is, in bad faith, contrary to the Policy and Rules.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant carries the burden of proving:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

The Respondent's default in the case at hand does not automatically result in a decision in favor of the Complainant, however, paragraph 5(f) of the Rules provides that if the Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute solely based upon the Complaint.

Further, according to paragraph 14(b) of the Rules, the Panel may draw such inferences from the Respondent's failure to submit a response as it considers appropriate.

A. Identical or Confusingly Similar

Ownership of a trademark registration is generally sufficient evidence that a complainant has the requisite rights in a trademark for purposes of paragraph 4(a)(i) of the Policy (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.2.1).

The Complainant has provided evidence of its rights in the EQUIFAX trademarks, as noted above. The Complainant has therefore proven that it has the requisite rights in the EQUIFAX trademarks.

With the Complainant's rights in the EQUIFAX trademarks established, the remaining question under the first element of the Policy is whether the disputed domain name, typically disregarding the TLD in which it is registered (in this case, ".com"), is identical or confusingly similar to the Complainant's trademark.

The EQUIFAX trademark is recognizable in the disputed domain name. The only alteration made to the mark is the additional letter “n”. Numerous UDRP panels have considered that a domain name which consists of a common, obvious, or intentional misspelling of a trademark to be confusingly similar to the relevant mark for purposes of the first element (see [WIPO Overview 3.0](#), section 1.9).

Thus, the Panel finds that the Complainant has satisfied the first element of the Policy.

B. Rights or Legitimate Interests

The second element the Complainant must prove is that the Respondent has no rights or legitimate interests in the disputed domain name.

Regarding the second element of the Policy, section 2.1 of [WIPO Overview 3.0](#) states,

“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”.

Once this burden is met, the burden of production shifts to the Respondent to demonstrate its rights or legitimate interests in the disputed domain name (though the burden of proof remains on the Complainant at all times).

If the Respondent does not satisfy its burden of coming forward with some evidence to rebut the Complainant’s *prima facie* case, or if the Respondent fails to file a response at all, the Complainant’s *prima facie* case will be sufficient to meet its burden of demonstrating that the Respondent has no rights or legitimate interests in the disputed domain name.

The Complainant has confirmed that the Respondent is not affiliated with the Complainant, or otherwise authorized or licensed to use the EQUIFAX trademarks or to seek registration of any domain name incorporating the trademarks. The Respondent is also not known to be associated with the EQUIFAX trademarks, and there is no evidence showing that the Respondent has been commonly known by the domain name.

In addition, the Respondent has not used the disputed domain name in connection with a *bona fide* offering of goods or services or a legitimate noncommercial or fair use.

The Panel also holds that the Respondent lacks any actual intention to use the disputed domain name for a legitimate noncommercial or fair use. Currently, the disputed domain name merely resolves to inactive page. Furthermore, as demonstrated by the Complainant on record, the disputed domain name has been used in connection with a phishing scheme, where the Respondent impersonated an employee of the Complainant and attempted to collect payment for a fraudulent invoice. None of such uses constitute a *bona fide* offering of goods or services or a legitimate noncommercial or fair use and, under the circumstances, cannot confer any rights or legitimate interests in the domain name upon the Respondent. See, e.g. *Capitec Bank Limited v. Rakesh Gajjar*, WIPO Case No. [D2019-0609](#).

Moreover, section 2.13 of [WIPO Overview 3.0](#) states:

“Panels have categorically held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent”.

Accordingly, the Complainant has provided evidence supporting its *prima facie* claim that the Respondent lacks any rights or legitimate interests in the domain name. The Respondent has failed to produce countervailing evidence of any rights or legitimate interests in the domain name.

Therefore, the Panel concludes that the Respondent does not have any rights or legitimate interests in the domain name and the Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The third element of paragraph 4(a) of the Policy requires that the Complainant demonstrate that the Respondent registered and is using the disputed domain name in bad faith.

On the issue of registration, the Panel notes that the Complainant's EQUIFAX trademarks substantially predate the Respondent's registration of the disputed domain name. The disputed domain name wholly incorporates an obvious misspelling of EQUIFAX trademark. The Complainant has acquired a considerable reputation in financial sector through longstanding and widespread use. Therefore, the Respondent knew or should have known the Complainant's trademarks at the time of registering the disputed domain name (see [WIPO Overview 3.0](#), section 3.2.2).

Further, the mere registration of the domain name that is confusingly similar to the Complainant's widely-known trademarks by the Respondent, who is unaffiliated with the Complainant, can by itself create a presumption of bad faith (see [WIPO Overview 3.0](#), section 3.1.4).

Moreover, the Respondent's knowledge of the Complainant and its trademarks can be readily inferred from the Respondent's use of the disputed domain name. The misspelling used to create the disputed domain name, and its previous use in impersonating an employee of the Complainant, clearly indicate that the Respondent was aware of the nature of the business associated with the Complainant's EQUIFAX trademarks. This evidence all gives the Panel reason to find that the Respondent knew of the Complainant's mark at the time he registered the disputed domain name.

On the issue of use, as explained above, the Complainant has evidenced that the Respondent is using the disputed domain name to send a phishing email impersonating an employee of the Complainant and attempting to obtain payment for a fraudulent invoice from a customer. The Panel determines that this constitutes bad faith use of the disputed domain name.

In the absence of any evidence to contend against the Complainant's evidence and claims, this Panel accepts the Complainant's evidence and finds that the Respondent has registered and used the disputed domain name to target the Complainant for its own commercial gain.

Accordingly, the Panel finds that the Complainant has satisfied 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, <equifax.com>, be transferred to the Complainant.

/Alissia Shchichka/

Alissia Shchichka

Sole Panelist

Date: November 16, 2023