

ADMINISTRATIVE PANEL DECISION

Equifax Inc. v. Deaveraux Berry, AAA Geen inc
Case No. D2024-1341

1. The Parties

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

Respondent is Deaveraux Berry, AAA Geen inc, US.

2. The Domain Names and Registrar

The disputed domain names <equifaxlending.blog>, <equifaxlending.cloud>, <equifaxlending.online>, <equifaxlending.site>, and <equifaxlending.website> are registered with IONOS SE (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 28, 2024. On March 28, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On April 2, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Redacted for Privacy, 1&1 Internet Inc) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 4, 2024, 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 April 7, 2024.

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 April 8, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 28, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on April 29, 2024.

The Center appointed Jeffrey M. Samuels as the sole panelist in this matter on May 8, 2024. 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 Equifax Inc. is a leading global provider of information solutions and human resources business process outsourcing services for businesses, governments, and consumers. Among its many services, Complainant offers 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.

Complainant operates or has investments in 24 countries in North America, Central and South America, Europe, and the Asia Pacific region. It employs about 11,000 people worldwide.

Complainant owns at least 221 trademark registrations in at least 56 jurisdictions around the world for marks that consist of or contain the word “Equifax”, which was first used in commerce and registered in the US since 1975. Such EQUIFAX trademark registrations include US Trademark Registration No. 1,027,544, which was issued on December 16, 1975; US Registration No. 1,045,574, which was issued on August 3, 1976; and US Trademark Registration No. 1,644,585, which was issued on May 14, 1991. Complainant also owns the domain name <equifax.com>, which was created on February 21, 1995.

Each of the disputed domain names was created on February 20, 2024. Respondent is not using any of the disputed domain names in connection with an active website. Respondent has configured MX records for each of the disputed domain names, enabling Respondent to send and receive email communications with email addresses that are linked to the disputed domain names.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

Complainant asserts that each of the disputed domain names is identical or confusingly similar to the EQUIFAX trademark. It points out that each of the disputed domain names contains the EQUIFAX mark in its entirety, simply adding the word “lending.”

Complainant next maintains that Respondent has no rights or legitimate interests in respect of the disputed domain names. Complainant explains that it has never assigned, granted, licensed, sold, transferred or in any way authorized Respondent to register or use the EQUIFAX mark in any manner. Insofar as Respondent has not used any of the disputed domain names, Complainant argues that Respondent clearly has not used the disputed domain names in connection with a bona fide offering of goods or services and is not making a legitimate noncommercial or fair use of the domain names. There also is no evidence that Respondent is commonly known by any of the disputed domain names.

Finally, Complainant contends that each of the disputed domain names was registered and is being used in bad faith. It indicates that the mere registration of a domain name that is identical or confusingly similar to a famous or widely known trademark can, by itself, create a presumption of bad faith and that “[i]t is implausible that [Respondent] was unaware of the Complainant when [it] registered the Domain Name[s] given the fame of the Trade Mark.” (*Six Continents Hotels v. Lin hongyu, Cheng Qi Lin*, WIPO Case No. [D2017-2033](#)). According to Complainant, the only way to explain Respondent’s registration of the disputed domain names is its desire to disrupt Complainant’s relationship with customers or potential customers or as an attempt to attract Internet users for potential gain.

Respondent's passive holding of each of the disputed domain names provides further support for a finding of bad faith registration and use, Complainant asserts. As support for this argument, Complainant maintains that its EQUIFAX mark is very distinctive and has a strong reputation, Respondent's identity is concealed in the Whois record, and it is impossible to identify any good faith use to which any of the disputed domain names may be put.

Complainant also notes that establishing MX records for each of the disputed domain names gives rise to the "strong possibility" that Respondent intends to use the disputed domain names in connection with a fraudulent phishing scheme.

B. Respondent

Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain names. Although the addition of other terms here, "lending," may bear on assessment of the second and third elements, the Panel finds the addition of such term, as well as the use of Top-Level Domains ("TLDs") ".blog," ".cloud," ".online," ".site," and ".website" do not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.8 and 1.11.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on complainant, panels have recognized that proving respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative," requiring information that is often primarily within the knowledge or control of respondent. As such, where complainant makes out a prima facie case that respondent lacks rights or legitimate interests, the burden of production on this element shifts to respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on complainant). If respondent fails to come forward with such relevant evidence, complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain names. Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise.

More particularly, Respondent has presented no evidence that it is licensed or otherwise authorized to use the EQUIFAX trademark as part of any of the disputed domain names or that it is commonly known by any of the disputed domain names. Further, given that none of the disputed domain names is being used in connection with an active website, it cannot be found that Respondent is using any of them in connection with a bona fide offering of goods or services or is making a legitimate noncommercial or fair use of any of the disputed domain names. Lastly, given the composition of the disputed domain names, namely combining the EQUIFAX trademark with the term “lending”, descriptive of the Complainant’s services, such composition is such to carry a risk of implied affiliation to the Complainant, contrary to the fact, which cannot constitute fair use. [WIPO Overview 3.0](#), section 2.5.1.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of complainant’s mark, (ii) the failure of respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3.

Having reviewed the available record, the Panel: (1) finds that the EQUIFAX mark is distinctive, well known, and enjoys a wide reputation (see *Equifax Inc. v. Super Privacy Service LTD c/o Dynadot/Babacan Gunduz*, WIPO Case No. [D2021-3814](#); *Equifax Inc. v. Balticsea LLC, Balcsea LLC*, WIPO Case No. [D2022-2497](#)); (2) notes that Respondent failed to file a Response; and (3) deems it “implausible” that any of the disputed domain names may be put to good faith use. Under such circumstances, the Panel finds that the passive holding of the disputed domain names does not prevent a finding of bad faith under the Policy.

In view of Complainant’s longstanding and widespread use of its EQUIFAX mark, which use predates Respondent’s registration of the disputed domain names by nearly 50 years, it is implausible that Respondent was not aware of Complainant and of its EQUIFAX mark at the time of registration of the domain names in issue. Respondent’s actions suggest “opportunistic bad faith” in violation of the Policy. See *Research in Motion Ltd. v. Dustin Picov*, WIPO Case No. [D2001-0492](#).

The Panel finds that Complainant has established the third element 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 names <equifaxlending.blog>, <equifaxlending.cloud>, <equifaxlending.online>, <equifaxlending.site>, and <equifaxlending.website> be transferred to Complainant.

/Jeffrey M. Samuels/

Jeffrey M. Samuels

Sole Panelist

Date: May 22, 2024